

<b>AWARD/CONTRACT</b>		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)	RATING	PAGE OF PAGES 1 81
CONTRACT (Proc. Inst. Ident.) NO. HSHQDC-06-D-00021/HSTS03-09-J-CIO632		3. EFFECTIVE DATE 09/25/2009	4. REQUISITION/PURCHASE REQUEST/PROJECT NO. 2409209CIO632	
5. ISSUED BY CODE	20	6. ADMINISTERED BY (If other than item 5) CODE	03	

OFFICE OF ACQUISITION  
701 S 12TH STREET  
ARLINGTON VA 20598

TSA Infrastructure  
601 S 12TH STREET  
ARLINGTON VA 20598

7. NAME AND ADDRESS OF CONTRACTOR (No., Street, City, Country, State and ZIP Code)

Computer Sciences Corporation  
3170 Fairview Park Drive  
Falls Church VA 22042

8. DELIVERY

☐ FOB ORIGIN ☒ OTHER (See below)

9. DISCOUNT FOR PROMPT PAYMENT

Net 30

10. SUBMIT INVOICES  
(4 copies unless otherwise specified)  
TO THE ADDRESS SHOWN IN

ITEM

Attn: (b)(6)

CODE 167448161

FACILITY CODE

11. SHIP TO/MARK FOR

CODE

TSA11

12. PAYMENT WILL BE MADE BY

CODE

TSA1

Office of Information Technology

701 S 12TH STREET

Attn: (b)(6)

ARLINGTON VA 20598

US Coast Guard Financial Center

TSA Commercial Invoices

P.O. Box 4111

Chesapeake VA 23327-4111

13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION:

☐ 10 U.S.C. 2304 (c) ( )

☐ 41 U.S.C. 263 (c) ( )

14. ACCOUNTING AND APPROPRIATION DATA

See Schedule

15A. ITEM NO	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT
Continued					

15G. TOTAL AMOUNT OF CONTRACT

\$88,065,331.00

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X	E	INSPECTION AND ACCEPTANCE	23	K REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS			
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CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

17. ☒ CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 3 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the solicitation stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)

18. ☐ AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number \_\_\_\_\_ including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any condition sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.

20A. NAME OF CONTRACTING OFFICER

Carl J. Debernard

20B. UNITED STATES OF AMERICA

(Signature of the Contracting Officer)

20C. DATE SIGNED

9/25/2009

15B. NAME

BY

(b)(6)

19C. DATE SIGNED

9/25/09

15B. NAME

PREVIOUS EDITION IS UNUSABLE

Working Copy

STANDARD FORM 26 (Rev. 4-81)  
Prescribed by GSA  
FAR (48 CFR) 53.214(a)

## CONTINUATION SHEET

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NAME OF OFFEROR OR CONTRACTOR

Computer Sciences Corporation

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Tax ID Number: 95-2043126 DUNS Number: 167448161 Accounting Info: STS090A000D2009ITS010GE000075006700670CIO-67000000 00000000-251D-TSA DIRECT-DEF. TASK-D FOB: Destination Period of Performance: 09/25/2009 to 09/24/2014				
00001	0-1-01-0000: Transition-In Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00002	0-2-01-0000: Program Management Services in Accordance with Section C, Statement of Work	1	JB	(b)(4)	
00003	0-2-02-0000: Resource Management Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00004	0-2-03-0000: Quality Management Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00005	0-2-04-0000: Asset Management Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00006	0-2-05-0000: Records Management Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00007	0-2-06-0000: Program Communications Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
	Continued ...				

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NAME OF OFFEROR OR CONTRACTOR

Computer Sciences Corporation

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
00008	0-2-07-0000: Disaster Recovery and Continuity of Operations Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00009	0-2-08-0000: Enterprise Architect Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00010	0-2-09-0000: Business Activities Project-specific Support, Surge Support, ODCs (Value-Added CLIN) Amount: \$0.00 (Option Line Item)	1	JB	0.00	
00011	0-2-10-0000: ITIP Tools Hosting Facility Services	1	JB	(b)(4)	
00012	0-3-01-0000: Security Management and Management Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00013	0-3-02-0000: SOC Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00014	0-3-03-0000: Technology Refreshments/Service Improvements Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00015	0-3-04-0000: Security Portal Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00016	0-3-05-0000: CSIRT and Incident Investigation Continued ...	1	JB	(b)(4)	

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NAME OF OFFEROR OR CONTRACTOR:

Computer Sciences Corporation

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Services in accordance with Section C, Statement of Work				
00017	0-3-06-0000: Security Incident Management Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00018	0-3-07-0000: Security Subject Matter Expertise Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00019	0-3-08-0000: IT Security Project-specific Support, Surge Support, ODCs (Value-Added CLIN) Amount: \$0.00 (Option Line Item)	1	JB	0.00	
00020	0-4-01-0000: Operational Effectiveness TSA Headquarters Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00021	0-4-03-0000: Headquarters Tier II Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00022	0-4-04-0000: Headquarters Tier III Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00023	0-4-05-0000: TTAC Tier II Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
	Continued ...				

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NAME OF OFFEROR OR CONTRACTOR

Computer Sciences Corporation

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
00024	0-4-06-0000: Field Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00025	0-4-07-0000: IT Specialist Support for Category X and T Airports Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00026	0-4-08-0000: RCSM International Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00027	0-4-09-0000: Installation, Moves, Adds and Changes (IMAC) Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00028	0-4-10-0000: Special Project IMACs Services in accordance with Section C, Statement of Work Amount: (b)(4) (Option Line Item)	1	JB	(b)(4)	
00029	0-4-11-0000: Freedom Center Operational Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00030	0-4-12-0000: Land Mobile Radio Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00031	0-4-14-0000: IT Rapid Response Program Support (Optional Work Order) Services in accordance with Section C, Statement of Work Amount: (b)(4) (Option Line Item)	1	JB	(b)(4)	
00032	0-4-15-0000: TSA Remote Access to Classified Enclaves (TRACE) (Optional Work Order) Services Continued ...	1	JB	(b)(4)	

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NAME OF OFFEROR OR CONTRACTOR

Computer Sciences Corporation

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	In accordance with Section C, Statement of Work Amount: (b)(4) 00 (Option Line Item)				
00033	0-4-17-0000: WebEOC® Support (Optional Work Order) Services in accordance with Section C, Statement of Work Amount: (b)(4) (Option Line Item)	1	JB	(b)(4)	
00034	0-4-18-0000: SharePoint/InfoPath (Optional Work Order) Services in accordance with Section C, Statement of Work Amount: (b)(4) (Option Line Item)	1	JB	(b)(4)	
00035	0-4-19-0000: Special Operations Surge, National Special Security Events (NSSR) and COOP Support (Optional Work Order) Services in accordance with Section C, Statement of Work Amount: (b)(4) (Option Line Item)	1	JB	(b)(4)	
00036	0-4-20-0000: Operational Effectiveness Project-specific Support, Surge Support, ODCs (Value-Added CLIN) Amount: \$0.00 (Option Line Item)	1	JB	0.00	
00037	0-5-01-0000: IT Engineering Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00038	0-5-02-0000: Operations & Maintenance Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00039	0-5-03-0000: Network Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00040	0-5-04-0000: Enterprise Systems Management Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
	Continued ...				

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NAME OF OFFEROR OR CONTRACTOR

Computer Sciences Corporation

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
00041	0-5-05-0000: Application Systems Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00042	0-5-06-0000: Help Desk Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00043	0-5-07-0000: Field and Equipment Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00044	0-5-09-0000: IT Testing Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00045	0-5-10-0000: Data Center O&M Support Services (Optional Work Order) Services in accordance with Section C, Statement of Work Amount: (b)(4) (Option Line Item)	1	JB	(b)(4)	
00046	0-5-10-0001: Data Center Migration Services (Optional Work Order) Services in accordance with Section C, Statement of Work Amount: (b)(4) (Option Line Item)	1	JB	(b)(4)	
00047	0-5-10-0002: Disaster Recovery (Optional Work Order) Services in accordance with Section C, Statement of Work Amount: (b)(4) (Option Line Item)	1	JB	(b)(4)	
00048	0-5-11-0000: Emerging Technologies Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00049	0-5-13-0000: Infrastructure Systems Certification and Accreditation Services in accordance with Section C, Statement of Work  Continued ...	1	JB	(b)(4)	

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NAME OF OFFEROR OR CONTRACTOR

Computer Sciences Corporation

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
00050	0-5-14-0000: Critical Incident Command (CIC) Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00051	0-5-15-0000: TSA Change Control Boards Support Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00052	0-5-16-0000: IT Service Management Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00053	0-5-17-0000: Change Management Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00054	0-5-18-0000: Security Vulnerability Scanning Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00055	0-5-19-0000: Malware Management Services in accordance with Section C, Statement of Work	1	JB	(b)(4)	
00056	0-5-20-0000: Network Access Control Services (Optional Work Order) Services in accordance with Section C, Statement of Work Amount: (b)(4) (Option Line Item)	1	JB	(b)(4)	
00057	0-5-21-0000: Network Behavior Anomalies Detection Services (Optional Work Order) Services in accordance with Section C, Statement of Work Amount: (b)(4) (Option Line Item) Continued ...	1	JB	(b)(4)	



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NAME OF OFFEROR OR CONTRACTOR

Computer Sciences Corporation

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
00058	0-5-22-0000: PIV Infrastructure (Optional Work Order) Services in accordance with Section C, Statement of Work Amount: (b)(4) (Option Line Item)	1	JB	(b)(4)	
00059	0-5-23-0000: Anti-Spam Service (Optional Work Order) Services in accordance with Section C, Statement of Work Amount: (b)(4) (Option Line Item)	1	JB	(b)(4)	
00060	0-5-24-0000: SD Project-specific Support, Surge Support, ODCs (Value-Added CLIN) Amount: \$0.00 (Option Line Item)	1	JB	0.00	
00061B	0-6-00-0001: Base Period Incentive Fee (Partial Funding)	1	JB	(b)(4)	
00061C	0-6-00-0001: Base Period Incentive Fee (Partial Funding)	1	JB	(b)(4)	
00061A	0-6-00-0001: Base Period Incentive Fee (Partial Funding)	1	JB	(b)(4)	
Total amount of award: \$98,635,690.00. The obligation for this award is shown in box 15G.					

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### Part I – The Schedule

Section A – Solicitation/Contract Form .....	
Section B – Schedule of Pricing .....	
Section C – Performance Work Statement .....	
Section D – Packaging and Marking .....	
Section E – Inspection and acceptance.....	
Section F – Deliveries or performance .....	
Section G – Contract Administration Data .....	
Section H – Special Contract Requirements.....	

### Part II - Contract Clauses

Section I – Contract Clauses.....	
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### Part III - List of Attachments

Section J – List of Attachments .....	
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## Section A – Task Order Award

Task Order number HSTS03-09-J-CIO632 under DIIS EAGLE contract number HSHQDC-06-D-00021 is hereby awarded to CSC. The total value of the Task Order award, inclusive of options, is \$492,182,701. The award amount stated in block 15G of the cover page of this Task Order represents the amount of funding obligated for the base period of the Task Order at the time of Task Order award.

## Section B – Schedule of Pricing

### B.1 Contract Line Item Numbers (CLIN) Framework

The Contractor shall perform the services identified in Section C, Statement of Work, of this Task Order in accordance with the prices identified in Table B-1 below. The prices identified in the CLINs below are inclusive of the discount provided by the Contractor.

The Table B-1 CLIN framework is presented in a format for the CLIN as Y-C-SS-XXXX where:

1. Y = Year of TO performance, 0 being the base year, and 1, 2, 3, and 4 are respectively used for the option years.
2. C= Service category (1 through 6 respectively for Transition, Business Activities, Security, Operational Effectiveness, Solutions Delivery Services, and Incentive Fee)
3. SS = Specific service within service category as defined in Section C of the RFP
4. XXXX = To be used by the Contractor to specify the proposed CLINs for the specific services.
5. CLINs presented in italics represent sub-CLINs for informational purposes; the total price for these sub-CLINs is aggregated at the main CLIN level.

CLIN Framework	Description	Total Base (\$)	Total Option 1	Total Option 2	Total Option 3	Total Option 4	Grand Total
Y-1-00-0000	Transition						
Y-1-01-0000	Transition In	(b)(4)	N/A	N/A	N/A	N/A	(b)(4)
Y-1-02-0000	Transition Out	N/A	N/A	N/A	N/A		
	Total Transition	(b)(4)	\$0	\$0	\$0		(b)(4)
Y-2-00-0000	IT Business Activities Directorate Services						
Y-2-01-0000	Program Management	(b)(4)					
Y-2-02-0000	Resource Management						
Y-2-03-0000	Quality Management						
Y-2-04-0000	Asset Management						
Y-2-05-0000	Records Management						

Y-2-05-0001	Additional Records Management Support (Value Add)	\$0	\$0	\$0	\$0	\$0	\$0
Y-2-06-0000	Program Communications	(b)(4)					
Y-2-07-0000	Disaster Recovery and Continuity of Operations						
Y-2-08-0000	Enterprise Architect						
Y-2-09-0000	BA Project-specific Support, Surge Support, and ODCs (Value Add)	\$0	\$0	\$0	\$0	\$0	\$0
Y-2-10-0000	ITIP Tools	(b)(4)					
Y-2-10-0001	[RESERVED]	RESERVED	RESERVED	RESERVED	RESERVED	RESERVED	\$0
Y-2-10-0002	[RESERVED]	RESERVED	RESERVED	RESERVED	RESERVED	RESERVED	\$0
Y-2-10-0003	Tools Hosting Facility	(b)(4)					
	Total Business Activities Directorate Services	\$10,841,137	\$10,577,786	\$8,875,376	\$7,327,601	\$7,098,020	\$44,719,920
Y-3-00-0000	IT Security Directorate Services						
Y-3-01-0000	Security Management and Management Support	(b)(4)					
Y-3-02-0000	SOC Support						
Y-3-03-0000	Technology Refreshments/Service Improvements						
Y-3-04-0000	Security Portal						
Y-3-05-0000	CSIRT and Incident Investigation						
Y-3-06-0000	Security Incident Management						
Y-3-07-0000	Security Subject Matter Expertise						
Y-3-08-0000	ITSEC Project-specific Support, Surge Support, and ODCs (Value Add)						
	Total Security Directorate Services	\$5,224,019	\$7,000,487	\$7,160,834	\$7,222,492	\$7,234,671	\$33,842,503
Y-4-00-0000	IT Operational Effectiveness Directorate Services						
Y-4-01-0000	TSA Headquarters Support	(b)(4)					
Y-4-02-0000	TTAC Support	NSP	NSP	NSP	NSP	NSP	\$0
Y-4-03-0000	Headquarters Tier II Support	(b)(4)					
Y-4-04-0000	Headquarters Tier III Support						
Y-4-05-0000	TTAC Tier II Support						
Y-4-06-0000	Field Support						
Y-4-07-0000	IT Specialist Support for Category X and I Airports						
Y-4-08-0000	RCSM International Support						
Y-4-08-0001	RCSM - OCONUS						
Y-4-08-0002	OCONUS Tier II Support						
Y-4-09-0000	Installation, Moves, Adds and Changes (IMAC); 2064 per yr						
Y-4-10-0000	Special Project IMACs						
Y-4-11-0000	Freedom Center Operational Support						
Y-4-12-0000	Land Mobile Radio						
Y-4-12-0001	LMR Resource Manager						
Y-4-12-0002	LMR Operations & Maintenance						
Y-4-12-0003	LMR Repeater Repair						

Y-4-12-0004	LMR Equipment Upgrade Project	(b)(4)					
.13-0000	[RESERVED]	RESERVED	RESERVED	RESERVED	RESERVED	RESERVED	\$0
Y-4-14-0000	IT Rapid Response Program Support (Optional Work Order)	(b)(4)					
Y-4-14-0001	ITRR Standup & Maintenance (Optional Work Order)						
Y-4-14-0002	ITRR Deployment - Small Group Deployment (Optional Work Order)						
Y-4-14-0003	ITRR Deployment - Large Group Deployment (Optional Work Order)						
Y-4-15-0000	TSA Remote Access to Classified Enclaves (TRACE) (Optional Work Order)						
Y-4-16-0000	[RESERVED]	RESERVED	RESERVED	RESERVED	RESERVED	RESERVED	\$0
Y-4-17-0000	WebEOC® Support (Optional Work Order)	(b)(4)					
Y-4-18-0000	SharePoint/InfoPath (Optional Work Order)						
Y-4-19-0000	Special Operations Surge, National Special Security Events (NSSE) and COOP Support						
Y-4-19-0001	Network Engineer						
Y-4-19-0002	Systems Administrator						
Y-4-19-0003	Technician						
Y-4-19-0004	VoIP Engineer						
Y-4-19-0005	Configuration Admin Specialist						
Y-4-19-0006	AV Specialist						
Y-4-19-0007	Jr Web Developer						
Y-4-19-0008	Sr Web Developer						
Y-4-20-0000	OE Project-specific Support, Surge Support, and ODCs (Value Add)	\$0	\$0	\$0	\$0	\$0	\$0
	Total Operational Effectiveness Directorate Services	\$31,240,756	\$33,523,460	\$34,400,123	\$35,107,067	\$35,675,799	\$169,947,194
Y-5-00-0000	IT Solutions Delivery Directorate Services						
Y-5-01-0000	IT Engineering Services	(b)(4)					
Y-5-02-0000	Operations & Maintenance						
Y-5-03-0000	Network Services						
Y-5-04-0000	Enterprise Systems Management Services						
Y-5-04-0001	Email Services - MS Exchange 2003						
Y-5-04-0002	Email Services - MS Exchange 2007						
Y-5-04-0003	Remote Server Management - Wintel Server						
Y-5-04-0004	Remote Server Management - UNIX/Linux Server, Small						
Y-5-04-0005	Remote Server Management - UNIX/Linux Server, Medium						
Y-5-04-0006	Remote Server Management - UNIX/Linux Server, Large						
Y-5-04-0007	Remote Server Management - UNIX/Linux Server, Enterprise						
Y-5-04-0008	Voice over IP Management (VoIP)						
Y-5-04-0009	Storage Management						

Y-5-04-0010	Backup and Recovery Systems	(b)(4)					
Y-5-04-0011	Tape Operations for TSA HQ Data Center						
Y-5-04-0012	Backup Media						
Y-5-04-0013	Off-site Media Storage						
Y-5-04-0014	Transfer of Existing Media to New Off-site Storage Facility						
Y-5-04-0015	Database Management						
Y-5-04-0016	Infrastructure Software Support						
Y-5-05-0000	Application Systems Support Services						
Y-5-06-0000	Help Desk Services						
Y-5-06-0001	Base Help Desk						
Y-5-06-0002	Additional Help Desk Calls						
Y-5-07-0000	Field and Equipment Support Services						
Y-5-07-0001	Desktop/Laptop	(b)(4)					
Y-5-07-0002	Wintel Server						
Y-5-07-0003	Wintel Server - High Availability SLA						
Y-5-07-0004	UNIX/Linux Server						
Y-5-07-0005	UNIX/Linux Server - High Availability SLA						
Y-5-07-0006	Network Printer						
Y-5-07-0007	Network Devices and Firewalls						
Y-5-07-0008	VoIP Phone						
Y-5-07-0009	Non-warranty Service						
Y-5-07-0010	Elite Service Uplift for Additional Elite Users						
Y-5-07-0011	Premium Service Uplift for Additional Premium Users						
Y-5-08-0000	[RESERVED]	RESERVED	RESERVED	RESERVED	RESERVED	RESERVED	\$0
Y-5-09-0000	IT Testing Services	(b)(4)					
Y-5-10-0000	Data Center O&M Support Services (Optional Work Order)						
Y-5-10-0001	Data Center Migration Services (Optional Work Order)						
Y-5-10-0002	Disaster Recovery (Optional Work Order)						
Y-5-11-0000	Emerging Technologies Support						
Y-5-12-0000	IT Security Services	NSP	NSP	NSP	NSP	NSP	\$0
Y-5-13-0000	Infrastructure Systems Certification and Accreditation	(b)(4)					
Y-5-14-0000	Critical Incident Command (CIC) Support Services						
Y-5-15-0000	TSA Change Control Boards Support Services						
Y-5-16-0000	IT Service Management						
Y-5-17-0000	Change Management						
Y-5-18-0000	Security Vulnerability Scanning Services						
Y-5-19-0000	Malware Management Services						
Y-5-20-0000	Network Access Control Services (Optional Work Order)						
Y-5-21-0000	Network Behavior Anomalies Detection Services (Optional Work Order)						
Y-5-22-0000	2-Factor Authentication PIV Infrastructure (Optional Work						

	Order)						
Y-5-23-0000	Anti-Spam Service (Optional Work Order)	(b)(4)					
Y-5-24-0000	SD Project-specific Support, Surge Support, and ODCs (Value Add)	\$0	\$0	\$0	\$0	\$0	\$0
	Total Solutions Delivery Directorate Services	\$40,123,257	\$48,511,163	\$46,463,064	\$45,010,609	\$44,234,395	\$224,342,488
Y-6-00-0000	Incentive Fees						
Y-6-00-0001	Quarter One Incentive Fee	(b)(4)					
Y-6-00-0002	Quarter Two Incentive Fee						
Y-6-00-0003	Quarter Three Incentive Fee						
Y-6-00-0004	Quarter Four Incentive Fee						

#### Price Summary

Transition		(b)(4)					
IT Business Activities Directorate Services							
IT Security Directorate Services							
IT Operational Effectiveness Directorate Services							
IT Solutions Delivery Directorate Services							
Incentive Fees							
Total Price		\$98,635,690	\$101,673,701	\$98,902,482	\$96,653,058	\$96,317,774	\$492,182,701

## B.2 Time and Material Labor/Firm Fixed Price Rates

All Work Orders issued on a T&M or FFP basis will be priced in accordance with the labor rates tables set forth in the EAGLE contract and the Task Order. Labor rates shall reflect the EAGLE contract rates; however, Offerors may, at their discretion, propose lower hourly rates.

## B.3 Task Order Type

This Task Order is awarded as a firm-fixed-price Order with incentive fees. In addition, the Task Order includes optional services, identified in the CLIN table above, that may be ordered on a Time-and-Materials/Labor-Hour basis. Travel costs and ODCs, if applicable, shall be separately priced and agreed to prior to the Contractor performing any services that involve travel or ODCs.

## B.4 Work Outside the Continental United States (OCONUS)

It is anticipated that there may be services performed under this Task Order for work outside the United States. Individual requests will set forth price proposal instructions for OCONUS services not already priced and included in the CLIN table above.

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## **B.5 Periodic Price Redetermination**

(a) *General.* The CLIN prices and the total prices for each period of performance stated in this task order may be periodically redetermined in accordance with this clause based on changes in quantities associated with Statement of Work requirements.

(b) *Price redetermination periods.* For the purpose of price redetermination, the parties agree that each period of performance under this task order (i.e. the base period and each option period) shall be a redetermination period. The parties further agree that any redetermination of prices shall not occur more frequently than once per redetermination period; that is, not more often than annually.

(c) *Price redetermination.*

(1) Unless otherwise directed by the Contracting Officer, the contractor shall, not later than 60 days prior to the end of each redetermination period, submit to the Contracting Officer data indicating the actual quantities and levels of service experienced under each CLIN of the task order, and a projection of the remaining quantities and levels of service expected to be experienced in the remainder of the redetermination period.

(2) Upon the Contracting Officer's receipt of the data required above, the Contracting Officer shall review the data and contact the Contractor to promptly negotiate to redetermine fair and reasonable prices for any CLINs affected by variations in quantities.

(d) *Contract modifications.* Each negotiated redetermination of prices shall be evidenced by a modification to this task order, signed by the Contractor and the Contracting Officer, stating the redetermined prices that apply during the redetermination period.

(e) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon redetermined prices for any price redetermination period within 60 days (or within such other period as the parties agree) after the date on which the data required by paragraph (d) of this section are to be submitted, the Contracting Officer shall promptly issue a decision in accordance with the Disputes clause. For the purpose of paragraph (d) of this section, and pending final settlement of the disagreement on appeal, by failure to appeal, or by agreement, this decision shall be treated as an executed task order modification. Pending final settlement, price redetermination for subsequent periods, if any, shall continue to be negotiated as provided in this clause.

(f) *Termination.* If this task order is terminated, prices shall continue to be established in accordance with this clause for (1) completed services accepted by the Government and (2) those services not terminated under a partial termination. All other elements of the termination shall be resolved in accordance with other applicable clauses of this contract.

## **B.6 Incentive Determination**

(a) The measurement of the Contractor's performance with respect to the Service Level Agreements (SLAs) under this Task Order and the calculation of any associated incentives earned by the Contractor shall reset to zero at the beginning of each incentive period. The



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measurement of the Contractor's performance and the associated incentive dollars available to be earned shall not be cumulative across incentive periods.

(b) Any disincentives applied to the Contractor's performance with respect to the SLAs shall be applied as an off-set against any incentive earned by the Contractor.

(c) The SLAs included in this Task Order reflect measurements of the Contractor's performance of the Task Order requirements. To the extent that events outside the Contractor's control adversely impact the Contractor's ability to achieve performance in accordance with the SLAs, the Contractor's performance will not be negatively evaluated with respect to the affected SLAs.

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## **Section C – Statement of Work**

**See Attachment 1 for Statement of Work**

## **Section D – Packaging and Marking**

### **D.1 Sensitive Information Packaging and Marking**

All items shall be delivered in accordance with Section D of the EAGLE contract unless otherwise specified in the individual Work Orders.

#### **Requirements for Marking For Official Use Only (FOUO)**

The following procedures are excerpted from Department Homeland Security Management Directive 11042 entitled “Safeguarding Sensitive but Unclassified (For Official Use Only) Information” and shall be followed:

#### **FOUO Marking**

Information designated as FOUO will be sufficiently marked so that persons having access to it are aware of its sensitivity and protection requirements. The lack of FOUO markings on materials does not relieve the holder from safeguarding responsibilities. Where the FOUO marking is not present on materials known by the holder to be FOUO, the holder of the material will protect it as FOUO. Other sensitive information protected by statute or regulation, e.g., PCII and SSI, etc., will be marked in accordance with the applicable guidance for that type of information. Information marked in accordance with the guidance provided for the type of information need not be additionally marked FOUO.

#### **Page Marking**

Prominently mark the bottom of the front cover, first page, title page, back cover and each individual page containing FOUO information with the caveat “FOR OFFICIAL USE ONLY.”

#### **Specific FOUO Types**

Materials containing specific types of FOUO may be further marked with the applicable caveat, e.g., “LAW ENFORCEMENT SENSITIVE,” in order to alert the reader of the type of information conveyed. Where the sensitivity of the information warrants

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additional access and dissemination restrictions, the originator may cite additional access and dissemination restrictions. For example:

*WARNING: This document is FOR OFFICIAL USE ONLY (FOUO). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information. This information shall not be distributed beyond the original addressees without prior authorization of the originator.*

### **FOUO Transmittal Outside of DHS**

Materials being transmitted to recipients outside of DHS, for example, other federal agencies, state or local officials, etc. who may not be aware of what the FOUO caveat represents, shall include the following additional notice:

*WARNING: This document is FOR OFFICIAL USE ONLY (FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official.*

### **Computer Storage Media**

Computer storage media, i.e., disks, tapes, removable drives, etc., containing FOUO information will be marked "FOR OFFICIAL USE ONLY."

### **Classified Documents Containing FOUO**

Portions of a classified document, i.e., subjects, titles, paragraphs, and subparagraphs that contain only FOUO information will be marked with the abbreviation (FOUO).

Individual portion markings on a document that contains no other designation are not required.

Designator or originator information and markings, downgrading instructions, and date/event markings are not required.

### **General Handling Procedures**

Although FOUO is the DHS standard caveat for identifying sensitive unclassified information, some types of FOUO information may be more sensitive than others and thus warrant additional safeguarding measures beyond the minimum requirements established in this manual. For example, certain types of information may be considered extremely sensitive based on the repercussions that could result should the information be released or compromised. Such repercussions could be the loss of life or compromise of an informant or operation. Additional control requirements may be added as necessary to afford appropriate protection to the information. DHS employees, contractors, and detailees must use sound judgment coupled with an evaluation of the risks,

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vulnerabilities, and the potential damage to personnel or property as the basis for determining the need for safeguards in excess of the minimum requirements and protect the information accordingly.

#### **FOUO Coversheet Usage**

When removed from an authorized storage location and persons without a need-to-know are present, or where casual observation would reveal FOUO information to unauthorized persons, a "FOR OFFICIAL USE ONLY" cover sheet will be used to prevent unauthorized or inadvertent disclosure.

#### **Transmitting FOUO**

When forwarding FOUO information, a FOUO cover sheet should be placed on top of the transmittal letter, memorandum or document.

#### **Receiving Non-DHS and Non-TSA FOUO**

When receiving FOUO equivalent information from another government agency, handle in accordance with the guidance provided by the other government agency. Where no guidance is provided, handle in accordance with the requirements of this contract.

### **D.2 Requirements for Marking Sensitive Security Information (SSI)**

This section contains requirements for Protective Marking and Limited Distribution Statement for Sensitive Security Information (SSI).

#### **Protective Marking.**

The protective marking consisting of the words "SENSITIVE SECURITY INFORMATION" must be applied to all documents that contain SSI. This marking should be written or stamped in plain bold type (Times New Roman) with a font size of 12 or an equivalent style and font size.

### **D.3 Distribution Limitation Statement**

The distribution statement must be applied to all documents that contain SSI. This statement should be written or stamped in plain bold type, Times New Roman and a font size of 8 or an equivalent style and font size.

Any documents referencing Security Sensitive Information as defined in 49 CFR Part 1520 must contain the following distribution limitation statement:

*"**WARNING:** This document contains SSI controlled under 49 CFR Part 1520. No part of this document may be released without the written permission of the Secretary of the Transportation Security Administration (TSA), Arlington, VA. Unauthorized release may result in civil penalty (5 U.S.C 552)."*

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In addition to Section D.2 of the EAGLE contract, all deliverables submitted shall clearly indicate:

- (1) Work Order Number
- (2) Work Package Title where appropriate

#### **D.4 Sensitive Information Handling**

The Contractor shall protect DHS sensitive information and all Government provided and contractor-owned IT systems used to store or process DHS sensitive information. The Contractor shall adhere to the following requirements for handling sensitive information:

(a) **Media Protection.** The Contractor shall ensure that all hardcopy and electronic media (including backup and removable media) that contain DHS sensitive information are appropriately marked and secured when not in use. Any sensitive information stored on media to be surplus, transferred to another individual, or returned to the manufacturer shall be purged from the media before disposal. Disposal shall be performed using DHS approved sanitization methods. The Contractor shall establish and implement procedures to ensure sensitive information cannot be accessed or stolen. These procedures shall address the handling and protection of paper and electronic outputs from systems (computers, printers, faxes, copiers) and the transportation and mailing of sensitive media. (See TSA 1400.3, Chapter 3, Section 19 – Information Classification, Control and Disclosure)

(b) **Access Control.** The Contractor shall control user access to DHS sensitive information based on positive user identification and authentication mechanisms. Access control measures employed shall provide protection from unauthorized alteration, loss, unavailability, or disclosure of information. The Contractor shall ensure its personnel are granted the most restrictive set of access privileges needed for performance of authorized tasks. The Contractor shall divide and separate duties and responsibilities of critical IT functions to different individuals so that no individual has all necessary authority or systems access privileges needed to disrupt or corrupt a critical process. (See TSA 1400.3, Chapter 4, Sections 2 – Network Access Control, and 3 – Remote Access)

(c) **Auditing.** The Contractor shall ensure that its contractor-owned IT systems used to store or process DHS sensitive information maintain an audit trail sufficient to reconstruct security relevant events. Audit trails shall include the identity of each person and device accessing or attempting to access the system, the time and date of the access and the log-off time, activities that might modify, bypass, or negate security safeguards, and security-relevant actions associated with processing. The Contractor shall periodically review audit logs and ensure that audit trails are protected from modification, authorized access, or destruction and are retained and regularly backed up. (See TSA 1400.3, Chapter 4, Sections 10 – Security Audit Trails)

(d) **Network Security.** The Contractor shall monitor its networks for security events and employ intrusion detection systems capable of detecting inappropriate, incorrect, or malicious activity. Any interconnections between contractor-owned IT systems that process or store DHS sensitive information and IT systems not controlled by

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DHS shall be established through controlled interfaces and documented through formal interconnection security agreements. The Contractor shall employ boundary protection devices to enforce access control between networks, including Internet and extranet access. The Contractor shall ensure its email systems are secure, properly configured, and that network protection mechanisms implemented. The Contractor shall conduct periodic vulnerability assessments and tests on its IT systems containing DHS sensitive information to identify security vulnerabilities. (See TSA 1400.3, Chapter 4, Sections 5 – Wide Area Network (WAN) Security, and 6 – Local Area Network (LAN) Security)

(e) **Rules of Behavior.** The Contractor shall develop and enforce Rules of Behavior for contractor-owned IT systems that process or store DHS sensitive information. (See TSA 1400.3, Chapter 3, Section 3 – Privacy and Acceptable Use Agreement)

(f) The Contractor shall adhere to the policy and guidance contained in DHS MD4300.Pub, Volume II, Part A, *IT Security Program Handbook for Sensitive Systems* in the implementation of this clause; as well as the TSA MD 1400.3 Pub Information Technology Security Manual, in above cited Sections within Chapters 2-4.

(g) All individuals that will have access to SSI under this Contract shall obtain a Non-Disclosure Agreement from the Contracting Officer.

**Sources:**

- DHS MD4300.Pub, Volume I, Part A, *Policy Guide for Sensitive Systems*, para 3.2, *Contractors and Outsourced Operations* (2<sup>nd</sup> and 3<sup>rd</sup> policy statements)
- TSA MD 1400.3 Information Technology Security Manual

## **D.5 Export-Sensitive Document Marking**

The contractor and TSA will each mark export sensitive documents that it discloses to the other party using the following legend:

*"This document contains export sensitive information. The recipient of this information is responsible for complying with all export rules of the United States Government prior to releasing or disclosing this information to nonimmigrant aliens."*

## **D.6 Equipment Removal**

All Contractor-owned equipment, accessories, and devices located on Government property shall be dismantled and removed from Government premises by the Contractor, at the Contractor's expense, within 90 calendar days after task order expiration, or as mutually agreed by the Government and the Contractor. Exceptions to this requirement shall be mutually agreed upon and written notice issued by the TO Contracting Officer. Specific requirements will be addressed in individual work orders.

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## **Section E – Inspection and Acceptance**

### **E.1 Inspection and Acceptance**

All Inspection and Acceptance shall be in accordance with Section E of the EAGLE contract unless otherwise specified in individual Work Orders.

### **E.2 Sub-contract Flow-down**

The Contractor shall hold all subcontractors to the same standards of performance as required for the Contractor's performance under this task order.

## **Section F – Deliveries or Performance**

### **F.1 Deliveries or Performance**

In addition to EAGLE Section F, Deliveries or Performance, the following terms and conditions are in full force and effect:

### **F.2 Task Order Term**

The term of this Task Order is a base period of one year from the date of task order and four option periods of one year each, beginning from the end of the base period.

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### **F.3 Period of Performance**

Specific work items under this Task Order may require periods of performance of shorter duration than the overall Task Order term identified in item F.2 above. Such periods of performance will be specified in each individual Work Order as applicable. In the event that an order requires performance that extends beyond the current Task Order term, the contractor shall be required to complete performance within the schedule set forth in the Task Order, provided such period does not extend beyond 180 days after expiration of the Task Order.

### **F.4 Deliverable Shipping**

All deliverables required under each Work Order shall be shipped FOB Destination to the Government address identified in each Work Order.

### **F.5 Transmittal Letter(s)**

A copy of the transmittal letter forwarding deliverables to the specified destinations shall be identified by the specified Contract number.

### **F.6 Submission of Reports**

The following reports are required to be delivered under this Task Order in accordance with the schedules stated and to the addresses provided for the Contracting Officer and COTR:

#### **Specific Reports**

Specific reports may be identified as required.

#### **Subcontracting Plan Reporting Compliance**

The vendor shall comply with Section F.11 – Subcontracting Plan Reports, of the EAGLE contract.



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## **F.7 Asset Management**

All assets in the possession of the Contractor must be maintained in good condition and returned to the Government in the same condition as when issued; while in the Contractor's possession, the Contractor shall maintain appropriate accountability of assets.

## **F.8 Delivery of Data**

Data shall be delivered in digital format as specified in Work Order. Data shall be addressed to the designated Contracting Officer's Technical Representative (COTR).

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## **Section G - Contract Administration Data**

In addition to Section G – Contract Administration Data, of the EAGLE contract, the following terms and conditions are in full force and effect.

### **G.1 Accounting and Appropriation Data**

Accounting and appropriation data for obligations under this Task Order is stated in the CILN funding portion of the Task Order.

### **G.2 Authority of Contracting Officials**

The authority of the Contracting Officer, Contract Specialist, Contracting Officer's Technical Representative and Contractor's Project Manager are as follows:

#### **Contract Requirement Modification**

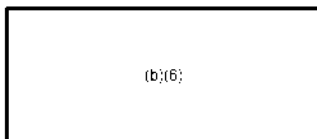
The contracting officer is the only person authorized to make or approve any changes in any of the requirements of this Task Order. Notwithstanding any clauses contained elsewhere in this Task Order or EAGLE Contract, the said authority remains solely with the contracting officer. Any changes made by the contractor at the direction of any person other than the contracting officer will be considered to have been made without authority and no adjustment will be made in the order price to cover any increase in cost incurred as a result of the change.

#### **Delegation of Contract Administration Authority**

The contracting officer may designate, in writing, representatives to perform functions required to administer this contract, however, any implied or expressed actions taken by those representatives must be within the limits cited within the contracting officer's written designations. If any individual alleges to be a representative of the contracting officer and the contractor has not received a copy of the document designating that representative's authority, the contractor shall refrain from acting upon the representative's requirements and immediately contact the contracting officer to obtain a copy of the document designating that individual as a representative of the contracting officer.

#### **Contracting Officer's Technical Representative**

The Contracting Officer's Technical Representative (COTR) for this Task Order is:



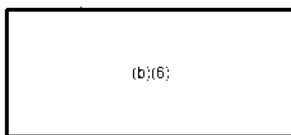
The COTR will represent the contracting officer in the administration of technical details within the scope of this contract. The COTR is also responsible for the final inspection

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and acceptance of all deliverables, and such other responsibilities as may be specified in the Work Order. The COTR is not otherwise authorized to make any representations or commitments of any kind on behalf of the contracting officer or the Government. The COTR does not have authority to alter the contractor's obligations or to change the contract specifications, price, terms or conditions. If, as a result of technical discussions, it is desirable to modify contract obligations or the statement of work, changes will be issued in writing and signed by the contracting officer. The Government may change the COTR assignment at any time without prior notice to the contractor. The contractor will be notified of the change.

### **Program Manager**

The contractor's designated Program Manager for this Task Order is:



The Contractor shall provide a Program Manager for this Task Order that has the authority to make any no-cost contract technical, hiring and dismissal decisions, or special arrangement regarding this contract. The Program Manager shall be responsible for the overall management and coordination of this Task Order and shall act as the central point of contact with the Government. The Program Manager shall have full authority to act for the Contractor in the performance of the required services. The Program Manager, or a designated representative, shall meet with the COTR to discuss problem areas as they occur.

### **G.3 Payment Schedule**

A payment schedule will be specified in each Work Order.

### **G.4 Travel And Per Diem**

The Contractor shall be reimbursed for travel costs associated with the performance of orders as follows:

- ◆ Travel subsistence reimbursements will be authorized under the rates and conditions under the Federal Travel Regulations.
- ◆ Per diem will be reimbursed, at actual costs, not to exceed, the per diem rates set forth in the Federal Travel Regulations prescribed by General Services Administration and when applicable, Standardized Regulations Section 925 – Maximum Travel Per Diem Allowances for Foreign Areas – prescribed by the Department of State.
- ◆ Travel of more than 10 hours, but less than 24 hours, when no lodging is required, per diem shall be one-half of the Meals and Incidental Expenses (M&IE) rate applicable to the locations of temporary duty assignment. If more than one temporary duty point is involved, the allowance of one-half of the M&IE rate is prescribed for the location where

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the majority of the time is spent performing official business. The per diem allowance shall not be allowed when the period of official travel is 10 hours or less during the same calendar day.

- ◆ Airfare costs in excess of the lowest rate available, offered during normal business hours are not reimbursable.
- ◆ All reimbursable Contractor travel shall be authorized through the issuance of a task order executed by the Contract Officer.
- ◆ Local travel costs will not be reimbursed. Local travel is defined as travel within a 50 mile radius of the contractor's primary work location.

## **G.5 Government Furnished Equipment / Facilities / Workspace**

If stated in the individual Work Order, sufficient workspace and facilities will be provided by TSA for the contractor's team and will include office furniture, telephones, networking, analog lines, computers, laptops, printers, and facsimile and copier machines. The Contractor shall use the Government Furnished Workspace and equipment only in connection with this Task Order.

## **G.6 Submission Of Invoices (Feb 2006)**

### **Invoicing for Deliverables**

The Contractor may not invoice the Government for deliverables until they have been formally accepted by the Government and such acceptance has been documented as evidenced by the COTR's signature.

### **U. S. Coast Guard Finance Center**

The Transportation Security Administration (TSA) partners with the United States Coast Guard Finance Center for financial services in support of TSA operations, including the payment of contractor invoices. Therefore, all contractor invoices must be submitted to, and will be paid by, the U.S. Coast Guard Finance Center (FinCen).

### **Method**

Invoices may be submitted via U.S. Mail, electronic mail, or facsimile. *Contractors shall utilize ONLY ONE method per invoice submission.* The submission information for each of the three methods is as follows:

#### **(1) U.S. Mail:**

United States Coast Guard Finance Center  
TSA Commercial Invoices  
P.O. Box 4111  
Chesapeake, VA 23327-4111

#### **(2) Electronic Mail:**

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TSAinvoices@fincen.uscg.mil

**(3) Facsimile:**

757-413-7314.

Facsimile submissions should be addressed to TSA Invoices.

The electronic mail address and facsimile number listed above shall be used by contractors for ORIGINAL invoice submission only. If either electronic mail or facsimile submission is utilized, contractors shall not submit hard copies of invoices via the U.S. mail. It is the responsibility of the contractor to verify that invoices are received, regardless of the method of submission used. Contractors may inquire regarding the receipt of invoices by contacting the U.S. Coast Guard Finance Center via the methods listed in "Payment Status" subparagraph of this clause.

**Invoice Approval**

Upon receipt of contractor invoices, FinCen will electronically route invoices to the appropriate TSA Contracting Officer's Technical Representative and/or Contracting Officer for review and approval. Upon approval, the TSA Contracting Officer will electronically route the invoices back to FinCen. Upon receipt of approved invoices from a TSA Contracting Officer, and the subsequent certification by an Authorized Certifying Official, FinCen will initiate payment of the invoices.

**Payment Status:**

Contractors may inquire on the payment status of an invoice by any of the following means:

- ◆ Via the internet: [https://www.fincen.uscg.mil/secure/PH\\_menu.htm](https://www.fincen.uscg.mil/secure/PH_menu.htm)
- ◆ Contacting the FinCen Customer Service Section via telephone at (757) 523-6940 (Voice Option #1). The hours of operation for the Customer Service line are 8:00 AM to 5:00 PM Eastern Time, Monday through Friday. However, the Customer Service line has a voice-mail feature that is available 24 hours per day, 7 days per week.
- ◆ Via the Payment Inquiry Form <https://www.fincen.uscg.mil/secure/payment.htm>

## **G.7 Preparation Of Invoices**

**Required Information**

Invoices shall include the information required in subparagraph (a)(2) of the Prompt Payment Clause, contained in this Section of the Contract, including EFT banking information, Taxpayer Identification Number (TIN), and DUNS number.

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## **Invoice Rejection**

Invoices that fail to provide the information required by the Prompt Payment Clause may be rejected by the Government and returned to the Contractor. Such rejection by the Government does not entitle the Contractor to interest payments from the date of submission of a rejected invoice. Interest payments apply only to proper invoices that are received by the Government.

## **Supplemental Invoice Documentation**

Contractors shall submit all supplemental invoice documentation (e.g. copies of subcontractor invoices, travel vouchers, etc) necessary to approve an invoice along with the original invoice. The Contractor invoice must contain the information stated in the Prompt Payment Clause in order to be received and processed by FinCen. Supplemental invoice documentation required for review and approval of invoices may, at the written direction of the Contracting Officer, be submitted directly to either the Contracting Officer, or the Contracting Officer's Technical Representative.

## **G.8 Prompt Payment (FAR 52.232-25) (OCT 2008)**

Notwithstanding any other payment clause in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer (EFT). Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

### **(a) Invoice payments—**

#### **(1) Due date.**

(i) Except as indicated in paragraphs (a)(2) and (c) of this clause, the due date for making invoice payments by the designated payment office is the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

#### **(2) Certain food products and other payments.**

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(i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are—

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(3)(i) through (a)(3)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils), with the reasons why it is not a proper invoice. The Government will take into account untimely notification when computing any interest penalty owed the Contractor.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, discount for prompt payment terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

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- (vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).
- (vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.
- (viii) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (ix) Electronic funds transfer (EFT) banking information.
- (A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.
- (B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (e.g., 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer- Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer-Other Than Central Contractor Registration), or applicable agency procedures.
- (C) EFT banking information is not required if the Government waived the requirement to pay by EFT.
- (x) Any other information or documentation required by the contract (e.g., evidence of shipment).
- (4) *Interest penalty.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.
- (i) The designated billing office received a proper invoice.
- (ii) The Government processed a receiving report or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.
- (iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.
- (5) *Computing penalty amount.* The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR Part 1315.
- (i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance is deemed to occur constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivers the supplies or performs the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. If actual acceptance occurs within the constructive acceptance period, the Government will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.



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(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(6) *Discounts for prompt payment.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR Part 1315.

(7) Additional interest penalty.

(i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR Part 1315 in addition to the interest penalty amount only if—

(A) The Government owes an interest penalty of \$1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall—

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest is due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible—

(1) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

(iii) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payment.* If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

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(c) *Fast payment procedure due dates.* If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(d) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(1) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

- (i) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);
- (ii) Affected contract number and delivery order number if applicable;
- (iii) Affected contract line item or subline item, if applicable; and
- (iv) Contractor point of contact.

(2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

## **Section H - Special Contract Requirements**

In addition to Section H – Special Contracting Requirements, of the EAGLE contract, the following terms and conditions are in full force and effect.

### **H.1 Section 508 Accessibility Compliance**

Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998, requires that when Federal agencies develop, procure, maintain or use electronic and information technology, they must ensure that it is accessible to people with disabilities. Federal employees and members of the public who have disabilities must have access to and use of information and services that is comparable to the access and use available to non-disabled Federal employees and members of the public.

All EIT deliverables within the work statement shall comply with the applicable technical and functional performance criteria of Section 508 unless exempt. Specifically, the following applicable standards have been identified:

- ◆ 36 CFR 1194.21 – Software Applications and Operating Systems, applies to all FIT software applications and operating systems procured or developed under this work statement.
- ◆ 36 CFR 1194.22 – Web-based Intranet and Internet Information and Applications, applies to all Web-based deliverables, including documentation and reports procured or developed under this work statement. When any Web application uses a dynamic (non-

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static) interface, embeds custom user control(s), embeds video or multimedia, uses proprietary or technical approaches such as Flash or Asynchronous JavaScript and XML (AJAX) then "1194.21 Software" standards apply to fulfill functional performance criteria.

- ◆ 36 CFR 1194.23 - Telecommunications Products, applies to all telecommunications products including end-user interfaces such as telephones and non end-user interfaces such as switches, circuits, etc. that are procured, developed or used by the Federal Government.
- ◆ 36 CFR 1194.24 - Video and Multimedia Products, applies to all video and multimedia products that are procured or developed under this work statement. Any video or multimedia presentation shall also comply with the software standards (1194.21) when the presentation has user controls available.
- ◆ 36 CFR 1194.31 - Functional Performance Criteria applies to all EIT deliverables regardless of delivery method. All EIT deliverable shall use technical standards, regardless of technology, to fulfill the functional performance criteria.
- ◆ 36 CFR 1194.41 - Information Documentation and Support, applies to all documents, reports, as well as help and support services. To ensure that documents and reports fulfill the required "1194.31 Functional Performance Criteria", they shall comply with the technical standard associated with Web-based Intranet and Internet Information and Applications at a minimum. Exceptions for this work statement have been determined by DHS. Only the exceptions described herein shall be applied. Any request for additional exceptions shall be sent to the COTR and determination will be made in accordance with DHS MD 4010.2.

DHS has identified the following exceptions that may be applied:

- ◆ 36 CFR 1194.2(b) - (COTS/GOTS products), When procuring a product, each agency shall procure products which comply with the provisions in this part when such products are available in the commercial marketplace or when such products are developed in response to a Government solicitation. Agencies cannot claim a product as a whole is not commercially available because no product in the marketplace meets all the standards. If products are commercially available that meet some but not all of the standards, the agency must procure the product that best meets the standards.

When applying this standard, all procurements of EIT shall have documentation of market research that identify a list of products or services that first meet the agency business needs, and from that list of products or services, an analysis that the selected product met more of the accessibility requirements than the non-selected products as required by FAR 39.2. Any selection of a product or service that meets less accessibility standards due to a significant difficulty or expense shall only be permitted under an undue burden claim and requires approval from the DHS Office on Accessible Systems and Technology (OAST) in accordance with DHS MD 4010.2.

- ◆ 36 CFR 1194.3(b) - Incidental to Contract, all EIT that is exclusively owned and used by the contractor to fulfill this work statement does not require compliance with Section 508. This exception does not apply to any EIT deliverable, service or item that will be used by

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any Federal employee(s) or member(s) of the public. This exception only applies to those contractors assigned to fulfill the obligations of this work statement and for the purposes of this requirement, are not considered members of the public.

## **H.2 Stop-Work Order**

The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Task Order for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either:

- ◆ Cancel the stop-work order; or
- ◆ Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this Task Order.

### **Canceling Stop Work Orders**

If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or Task Order price, or both, and the Task Order shall be modified, in writing, accordingly, if-

- ◆ The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Task Order; and
- ◆ The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this Task Order.

### **Convenience of the Government**

If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

### **Default**

If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

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### **H.3 Contractor Personnel Suitability Requirements**

During performance of this Task Order, the contractor and/or subcontractor(s) will immediately notify the Contracting Officer in the event a contractor or subcontractor employee is arrested (detained by law enforcement for any offenses, other than minor traffic offenses) or is involved in theft of government property or the contractor or subcontractor becomes aware of any information that may raise a question about the suitability of a contractor employee.

### **H.4 Avoidance of Personal Services**

The Government shall not supervise contractor employees. The contractor shall determine work schedules and work methodology for its employees.

#### **Prohibition on Personal Services**

No personal services shall be performed under this Task Order. No Contractor employee will be directly supervised by the Government. All individual employee assignments, and daily work direction, shall be given by the applicable employee supervisor. If the Contractor believes any Government action or communication has been given that would create a personal services relationship between the Government and any Contractor employee, the Contractor shall promptly notify the Contracting Officer of this communication or action.

#### **Performance of Inherently Governmental Functions**

The Contractor shall not perform any inherently governmental functions under this Task Order. No Contractor employee shall hold him or herself out to be a Government employee, agent, or representative. No Contractor employee shall state orally or in writing at any time that he or she is acting on behalf of the Government. In all communications with third parties in connection with this contract, Contractor employees shall identify themselves as Contractor employees and specify the name of the company for which they work. In all communications with other Government Contractors in connection with this contract, the Contractor employee shall state that they have no authority to in any way change the contract and that if the other Contractor believes this communication to be a direction to change their Task Order, they should notify the Contracting Officer for that contract and not carry out the direction until a clarification has been issued by the Contracting Officer.

### **H.5 Government Rights**

Nothing in this clause shall limit the Government's rights in any way under any other provision of the Task Order, including those related to the Government's right to inspect and accept the services to be performed under this Task Order.

## H.6 Release of Information

The contractor and subcontractors may NOT release to the public or other Government agencies any information developed under or pertaining to this Task Order or subcontracts without the approval of the Contracting Officer. This information includes press releases, promotional literature, price lists, and deliverables.

## H.7 Key Personnel

The contractor shall use the key personnel set forth in its offer, upon which award of this Task Order shall be based, for performance of the effort set forth under the Task Order. In the event that one or more of the personnel are not available, or become unavailable, the contractor shall furnish substitute personnel of equal skills, which substitutions shall be subject to approval of the contracting officer.

Key personnel for this Task Order shall be the individuals performing the requirements of the positions listed in the Key Personnel table in Section C, Subsection C.6.1 of the Task Order. The specific names of the individuals performing these Key Personnel positions are also identified in the table below. In addition, any personnel proposed by the contractor to perform classified requirements for the Task Order (see Section, Item H.19) shall be designated as Key Personnel, and are subject to the approval requirements of this clause II.9.

Key Personnel Table					
#	SOW REF	Directorate	Key Position Description	TSA Labor Category	Filled by
K-1	C.2.1.0	BA	Program Manager	Project Manager /	(b)(6)
K-2	C.2.1.1	BA	Deputy Program Manager	Project Manager /	
K-3	C.2.2	BA	Enterprise Architect	Systems Architect /	
K-4	C.3.2.13	ITSEC	Security Program Manager	Project Mgr or IT Sec Spec (S) /	
K-5	C.3.2.13	ITSEC	Senior Security SME	IT Security Spec (S)	
K-6	C.3.2.13	ITSEC	Senior Security SME	IT Security Spec (S)	
K-7	C.3.2.13	ITSEC	Senior Security SME	IT Security Spec (S)	
K-8	C.3.3	ITSEC	Security Transition Project Manager	IT Security Spec (S)	
K-9	C.4.16	OE	HQ Customer Service Manager	Systems OPNS Mgr or Systems Eng (S) Possible switch	
K-10	C.4.2.3 C.4.18	OE	Regional CSM: North East Region	Systems OPNS Mgr or Systems Eng (S)	
K-11	C.4.2.3 C.4.18	OE	Regional CSM: North East Region	Systems OPNS Mgr or Systems Eng (S)	

K-12	C.4.2.3 C.4.18	OE	Regional CSM: South East Region	Systems OPNS Mgr or Systems Eng (S)
K-13	C.4.2.3 C.4.18	OE	Regional CSM: South East Region	Systems OPNS Mgr or Systems Eng (S)
K-14	C.4.2.3 C.4.18	OE	Regional CSM: North Central Region	Systems OPNS Mgr or Systems Eng (S)
K-15	C.4.2.3 C.4.18	OE	Regional CSM: North Central Region	Systems OPNS Mgr or Systems Eng (S)
K-16	C.4.2.3 C.4.18	OE	Regional CSM: South Central Region	Systems OPNS Mgr or Systems Eng (S)
K-17	C.4.2.3 C.4.18	OE	Regional CSM: South Central Region	Systems OPNS Mgr or Systems Eng (S)
K-18	C.4.2.3 C.4.18	OE	Regional CSM: Western Region	Systems OPNS Mgr or Systems Eng (S)
K-19	C.4.2.3 C.4.18	OE	Regional CSM: Western Region	Systems OPNS Mgr or Systems Eng (S)
K-20	C.4.2.3 C.4.18	OE	Freedom Center Support Manager	Systems OPNS Mgr or Systems Eng (S)
K-21	C.4.14.1 C.4.18	OE	LMR Resource Manager	Systems OPNS Mgr or Systems Eng (S)
K-22	C.4.14.1C.4.18	OE	LMR Resource Manager	Systems OPNS Mgr or Systems Eng (S)
K-23	C.4.16 C.4.18	OE	IT Rapid Response Program Manager (Optional)	Systems OPNS Mgr or Systems Eng (S)
K-24	C.5.3	SD	Solutions Delivery Program Manager	Project Mgr or Systems OPNS Mgr or Systems ENG (S)
K-25	C.5.3	SD	Overall Operations and Maintenance Manager	Systems OPNS Mgr or Systems Eng (S)
K-26	C.5.3	SD	Group Manager for Wintel/Microsoft (or Systems Manager)	Systems OPNS Mgr or Systems Eng (S)
K-27	C.5.3	SD	Manager Wintel/Microsoft-systems and environments (Operations)	Systems OPNS Mgr or Systems Eng (S)
K-28	C.5.3	SD	Manager Wintel/Microsoft-systems and environments (Engineering)	Systems OPNS Mgr or Systems Eng (S)
K-29	C.5.3		Manager Data Management/ SAN, Backup and restoration	Database MGT Spec (S) or Systems OPNS Mgr or Systems Eng (S)
K-30	C.5.3	SD	Group Manager for UNIX-based Applications	APPS ENG (S) or Systems OPNS MGR or Systems ENG
K-31	5.3.2	SD	Senior Technical Staff Cisco Eng (Senior Level Technical Staff)	APPS ENG (S) or Systems OPNS MGR or Systems ENG or Database MGT Spec (S) or Hardware Tech (S) IT Security SPEC (S)

(b)(6)

K-32	5.3.3	SD	Senior Technical Staff SAN Eng (Senior Level Technical Staff)	APPS ENG (S) or Systems OPNS MGR or Systems ENG or Database MGT Spec (S) or Hardware Tech (S) IT Security SPEC (S)	(b)(6)
K-33	5.3.4	SD	Sr Server Engineer (UNIX) (Senior Level Technical Staff)	APPS ENG (S) or Systems OPNS MGR or Systems ENG or Database MGT Spec (S) or Hardware Tech (S) IT Security SPEC (S)	
K-34	5.3.5	SD	Sr Oracle Engineer (Senior Level Technical Staff)	APPS ENG (S) or Systems OPNS MGR or Systems ENG or Database MGT Spec (S) or Hardware Tech (S) IT Security SPEC (S)	
K-35	5.3.6	SD	Sr Microsoft Engineer (Senior Level Technical Staff)	APPS ENG (S) or Systems OPNS MGR or Systems ENG or Database MGT Spec (S) or Hardware Tech (S) IT Security SPEC (S)	
K-36	C.5.3 C.5.6	SD	Senior Networks Operations Manager (NOC MGR)	Comms/Network Mgr /	
K-37	C.5.3	SD	Critical Incident Command Manager	Systems OPNS Mgr or Systems Eng (S)	
K-38	C.5.3	SD	Data Center Manager (Optional)	Database MGT Spec (S)	
K-39	C.5.3 C.5.6	SD	Senior Network Engineer	Systems Engineer (S)	
K-40	C.5.3 C.5.6	SD	Senior VoIP Engineer	Comms/Network Engineer	
K-41	C.5.3 C.5.6	SD	TSA Operations Manager (NMC/TOC/CIC)	Systems OPNS Mgr	

If applicable, Key personnel will also be identified at the Work Order level with the same substitution requirements as outlined herein.

### **Substitution of Key Personnel**

The contractor shall assign to the Task Order those persons whose resumes were submitted with its offer who are necessary to fill the requirements of the Task Order and orders there under. No substitutions shall be made except in accordance with this clause.

### **Request for Substitutions**

The contractor shall not allow personnel substitutions during the Task Order performance period unless the contractor promptly notifies the Contracting Officer, with a copy to the COTR and provides the information required by this section. All proposed substitutions must be submitted, in writing, at least fifteen (15) working days in advance of the



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proposed substitutions to the Contracting Officer, and provide the information required in this section.

All requests for substitutions must include a detailed explanation of the circumstances necessitating the proposed substitutions, a complete resume for the proposed substitute, and any other information requested by the Contracting Officer needed to approve or disapprove the proposed substitution. All proposed substitutions must have qualifications that are equal to or higher than the qualifications of the person(s) to be replaced. The Contracting Officer or an authorized representative will evaluate such requests and promptly notify the contractor of approval or disapproval within 10 business days of receipt of the substitution request.

## **H.8 Interrelationship of Associate Contractors**

The TSA may enter into contractual agreements with other Contractors (i.e., "Associate Contractors") in order to provide information technology requirements separate from the work to be performed under this Task Order, yet having links and interfaces to this Task Order. The Contractor may be required to coordinate with other such Contractor(s) through the cognizant Contracting Officer and/or designated representative in providing suitable, non-conflicting technical and/or management interfaces and in avoidance of duplication of effort. Information on deliverables provided under separate contracts may, at the discretion of the TSA and/or other Government agencies, be provided to such other Contractor(s) for the purpose of such work.

Where the Contractor and an associate Contractor fail to agree upon action to be taken in connection with their respective responsibilities, each Contractor shall promptly bring the matters to the attention of the cognizant Contracting Officer and furnish the Contractor's recommendations for a solution. The Contractor shall not be relieved of its obligations to make timely deliveries or be entitled to any other adjustment because of failure of the Contractor and its associate to promptly refer matters to the Contracting Officer or because of failure to implement Contracting Officer directions.

Where the Contractor and Associate Contractors are required to collaborate to deliver a service; the Government will designate, in writing and prior to the definition of the task, to both Contractors, a "lead Contractor" for the project. In these cases the Associate Contractors shall also be contractually required to coordinate and collaborate with the Contractor. TSA will facilitate the mutual execution of Non-Disclosure Agreements.

Compliance with this Special Contract Requirement is included in the Task Order price and shall not be a basis for equitable adjustment.

## **H.9 Notification of Required Insurance**

Before commencing work under this Task Order, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective:

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- ◆ For such period as the laws of the State in which this Task Order is to be performed prescribe; or
  - ◆ Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

#### **Subcontractor Insurance Clause Requirement**

The Contractor shall insert the substance of this clause, including this paragraph, in subcontracts under this Task Order that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required above. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

### **H.10 Organizational Conflicts of Interest (OCI)**

#### **Policy**

It is the Transportation Security Administration (TSA) policy to award Task Orders to only those Offerors whose objectivity is not impaired because of any related past, present, or planned interest, financial or otherwise, in organizations regulated by TSA or in organizations whose interests may be substantially affected by Agency activities.

#### **Post-Award OCI Disclosure**

The Contractor agrees that if an actual or potential OCI is discovered during performance of the Task Order, the Contractor shall make a full disclosure in writing to the Contracting Officer. This disclosure shall include a mitigation plan describing actions the Contractor has taken or proposes to take to avoid, mitigate, or neutralize the actual or potential conflict. Changes in the Contractor's relationships due to mergers, consolidations or any unanticipated circumstances may create an unacceptable organizational conflict of interest which may necessitate such disclosure. The TSA reserves the right to review and audit OCI mitigation plans as needed, and to reject mitigation plans if the OCI, in the judgment of the Contracting Officer cannot be avoided, or mitigated.

#### **Termination for OCI**

The Contracting Officer may terminate this Task Order for convenience, in whole or in part, if the Contracting Officer deems such termination necessary to avoid an OCI. If the Contractor was aware of a potential OCI prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the Contracting Officer, the Government may terminate the Task Order for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this Task Order.

The Contractor further agrees to insert provisions which shall conform substantially to the language of this clause in any subcontract or consultant agreement hereunder.

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## **H.11 Security Requirements**

The Contractor shall include the substance of this clause in all subcontracts at any tier where the subcontractor may have access to Government facilities, sensitive information, or resources.

### **Restrictions Upon Disclosure**

The Contractor agrees to keep all information it gathers or analyzes, or information the Government in the course of this Task Order furnishes, in the strictest of confidence, said information being the sole property of the Government. The Contractor also agrees that Government-provided information marked "For Official Use Only," "Confidential," or "Proprietary" must also be similarly protected and shall take all reasonable measures necessary to prohibit access to such information by any such person other than those Contractor employees needing such information to perform the work, i.e., on a need-to-know basis.

(a) The Contractor shall immediately notify the Contracting Officer in the event it determines or has reason to suspect a breach of this requirement.

(b) The Contractor shall require that all employees and consultants who are given access to such information sign a confidentiality and non-disclosure statement agreeing to safeguard the confidentiality of all such information gathered or provided to them hereunder as an integral condition of their employment.

(c) Upon the Government's request, the Contractor shall provide the Contracting Officer with plans and procedures to ensure the confidentiality and physical security of information gathered or provided hereunder.

(d) The Contractor may "gather and analyze" information that is not furnished or owned by the Government. Such information will not be subject to the restrictions in this clause.

### **Confidentiality of Data and Information**

(a) In the performance of this Task Order, the Contractor, its consultants and or subcontractors, may need access to information in the Government's possession which is encumbered with restrictions on the Government's rights to use or disclose, or that might preclude dissemination or use other than in the performance of this Task Order. By reason of the foregoing, the Contractor agrees that any employee, subcontractor or consultant it uses shall comply with all restrictive legends or markings on data, software, or information it uses, and further agrees not to:

(1) Knowingly disclose such data or information to others without prior written authorization from the Contracting Officer, unless that data

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or information has otherwise become available to the public through no action or fault of the Contractor; and

(2) Use for any purpose other than the performance of this Task Order data bearing a restrictive marking or legend, unless such information or data has otherwise fallen into public domain through no action or fault of the Contractor.

(3) If work required to be performed under this Task Order requires access to proprietary data of other companies, the Contractor shall use its best efforts to obtain an agreement from such other companies for such use unless such data is provided or made available to the Contractor by the Government. Two copies of any such company-to-company agreements so entered into shall be furnished promptly to the Contracting Officer. Company-to-Company agreements shall prescribe the scope of authorized use of disclosure, and other terms and conditions agreed upon between the parties.

(4) The Contractor agrees to make employees aware of the requirement to maintain confidentiality of data and information and the necessity to refrain from divulging either proprietary data of other companies or data obtained from the Government to unauthorized persons.

(5) The Contractor agrees to obtain from each employee connected with this Task Order, a written agreement that the employee will not during his/her employment by the Contractor or thereafter, disclose to others or use for his/her own benefit or the future benefit of any individual, any trade secrets, confidential information or proprietary/restricted data (to include Government "For Official Use Only") received in connection with the work under this Task Order.

(6) The Contractor agrees to include the substance of this provision in all subcontracts awarded under this Task Order, except to the extent that:

(i) The Contractor considers the application of the prohibition of this provision to be inappropriate and unnecessary in the case of a particular subcontract.

(ii) The subcontractor provides a written statement affirming absolute unwillingness to perform absent some relief from the substance of this prohibition; or

(iii) If the Contractor encounters the situation described in 6.i and ii, the Contractor agrees to provide the Contracting officer written notice of the circumstances within ten working days of being notified by the subcontractor's unwillingness to perform. The Contractor agrees not to use any subcontractor so expressing unwillingness to perform absent any relief from the requirements of this section, unless use of an alternate subcontract source would unreasonably detract from the quality of the effort.

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## **General Sensitive Information Requirements**

(a) Effort to be performed by this Task Order may require access and protection of sensitive information and data. The Contractor shall ensure that all appropriate security and protection actions are taken, including providing cleared personnel and procedures, as required, and consistent with the TSA security requirements.

(b) The Contractor shall comply with the following TSA Management Directives and any updates, as applicable:

1. TSA Management Directive No. 2800.3, "Control of Secure Terminal Equipment (STE) Telephones.
2. TSA Management Directive No. 2800.31, "Control of Integrated Services Telephone (IST) Telephones."
3. TSA Management Directive No. 2800.5, "Foreign Travel Briefing and Contact Reporting Requirements."
4. TSA Management Directive No. 2800.8, "Information Security (INFOSEC) Program."

## **Security Policies and Directives**

The Contractor is required to comply with all Government security law, policies, directives, and procedures including, but not limited to:

- ◆ Federal Information Security Management Act (FISMA)
- ◆ NIST Series 800
- ◆ Security-related DHS and TSA Management Directives
- ◆ System-specific security requirements
- ◆ Application-specific security requirements

Vendors will be responsible for identifying, evaluating, and proposing appropriately qualified staff for their respective work packages.

The TSA information security policy is an operational implementation and extension of the DHS Sensitive Systems Policy Directive 4300A, Version 5, March 1, 2007. DIIS 4300A provides general policy in a wide variety of areas and provides guidance to DHS Organizational Elements (OEs) for the establishment of operational policy within the OEs. DHS 4300A takes precedence in instances where there is conflict between it and TSA MD 1400.3 that is not otherwise resolved by TSA MD 1400.3, Attachment 1, Security Policy – DIIS Bridge. Note that the TSA MD 1400.3 addresses additional details relating to security policies, personnel security, data encryption, and more.

The Homeland Security Acquisition Regulations (HSAR) serves as a supplement to the Federal Acquisition Regulations (FAR). The OCIO/OCISO/IT Security Office currently complies with FAR and HSAR related statements, to include "Contractor Employee

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Access". In addition to the above referenced HSAR document, the "TSA MD 2800.71 - Pre-employment Investigation Standard for TSA Employees and Contractors" document also references and addresses:

- ◆ SSI
- ◆ FOUO
- ◆ Sensitive Information
- ◆ Information Technology Resources,
- ◆ Background checks/analysis and administrative processes together with CO, COTR and CSO,
- ◆ Sensitive information training, computer access agreement (CAA) and security orientation briefing (are performed by the IT Security's Security Awareness, Training and Education Program) for prime or subcontractors,
- ◆ Employee Non-Disclosure Agreement (NDA) which is kept on file at IT Security, and
- ◆ Specific site/building/floor access (as arranged by the COTR and Training Coordinator).

DHS MD 11042 (date 5/11/04), Safeguarding Sensitive But Unclassified (FOUO) Information and 49 Code of Federal Regulations Part 1520.5, addresses HSAR-related information for which the OCISO is in compliant as well. The TSA FISMA dashboard scores (Green) and the judgment of the DHS Inspector General attest to our compliance with Public Law and appropriate Executive Orders

HSAR - 3052.204-71 Contractor Employee Access (June 2006) and Alternate I (June 2006) Requirements. To reemphasize, the below referenced requirements can be found on pages, 2-2, 4-1 & 4-2, 52-1, 52-3, 52-4, 52-5, 52-6 and 52-7 of the HSAR. As indicated, the OCIO/OCISO/IT Security is in total compliance to this requirement.

#### **Privacy or Security Safeguards**

(a) The Contractor shall not publish or disclose in any manner, without the Contracting Officer's written consent, the details of any safeguards either designed or developed by the Contractor under this Task Order or otherwise provided by the Government.

(b) To the extent required to carry out a program of inspection to safeguard against threats and hazards to the security, integrity, and confidentiality of Government data, the Contractor shall afford the Government access to the Contractor's facilities, installations, technical capabilities, operations, documentation, records, and databases.

(c) If new or unanticipated threats or hazards are discovered by either the Government or the Contractor, or if existing safeguards have ceased to function,

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the discoverer shall immediately bring the situation to the attention of the other party.

(d) The Contractor shall not be eligible for any award fee for any evaluation period in which there is a breach of privacy or security. Lost award fee due to a major breach of privacy or security may not be allocated to future evaluation periods.

(e) The award fee authority shall determine whether a security or privacy breach is categorized as a major security or privacy breach.

To ensure that any potential final award fee evaluation at Task Order completion reflects any breach of privacy or security, in an interim period, the overall award fee pool shall be reduced by the amount of the fee available for the period in which the major breach occurred if a zero fee determination was made because of a major breach of privacy or security.

## **H.12 Non-Disclosure Agreement**

The Contractor shall sign a Non-disclosure Statement on behalf of the company and shall also ensure that all staff assigned to, including all subcontractors and consultants execute and adhere to the terms of the non-disclosure statement, protecting sensitive information of the Government. Assignment of staff who have not executed this statement or failure to adhere to this statement shall constitute default on the part of the Contractor.

### **Contractor Employee NDAs**

Contractor employees, prior to beginning work, shall sign a non-disclosure agreement to be furnished to the Contracting Officer.

## **H.13 Facility Security**

### **Facility Security Clearance**

#### **(1) Security Requirements (Aug 1996)**

- a) This clause applies to the extent that this Task Order involves access to information classified "Confidential", "Secret", or "Top Secret".
- b) The Contractor shall comply with-
  - (1) The Security Agreement (DD Form 441), including the National Industrial Security Program Operating Manual (DOD 5220.22-M); and
  - (2) Any revisions to that manual, notice of which has been furnished to the Contractor.
- c) If subsequent to the date of this Task Order, the security classification or security requirements under this Task Order are changed by the Government and if the

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changes cause an increase or decrease in security costs or otherwise affect any other term or condition of this Task Order, the Task Order shall be subject to an equitable adjustment as if the changes were directed under the Changes clause of this Task Order.

- d) The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph (d) but excluding any reference to the Changes clause of this Task Order, in all subcontracts under this Task Order that involve access to classified information.

## **H.14 Physical Security**

The Contractor shall ensure that access to Contractor buildings, rooms, work areas and spaces, and structures that house DHS sensitive information or IT systems through which DHS sensitive information can be accessed, is limited to authorized personnel. The Contractor shall ensure that controls are implemented to deter, detect, monitor, restrict, and regulate access to controlled areas at all times. Controls shall be sufficient to safeguard IT assets and DHS sensitive information against loss, theft, destruction, accidental damage, hazardous conditions, fire, malicious actions, and natural disasters. Physical security controls shall be implemented in accordance with the policy and guidance contained in DHS MD4300.Pub, Volume II, Part A, *IT Security Program Handbook for Sensitive Systems*; as well as the TSA MD 1400.3 Pub Information Technology Security Manual, Sections within Chapters 2-4.

### **Sources:**

- DHS MD4300.Pub, Volume I, Part A, *Policy Guide for Sensitive Systems*, para 3.2, *Contractors and Outsourced Operations* (2<sup>nd</sup> and 3<sup>rd</sup> policy statements); para 4.2.1, General Physical Access
- DHS MD11050.1, Physical Protection of Facilities and Real Property
- TSA 1400.3, Information Technology Security Manual, Chapter 3, Section 2 – Physical and Environmental Security

## **H.15 Contingency Planning**

If performance of the Task Order requires that DHS data be stored or processed on Contractor-owned information systems, the Contractor shall develop and maintain contingency plans to be implemented in the event normal operations are disrupted. All contractor personnel involved with contingency planning efforts shall be identified and trained in the procedures and logistics needed to implement these plans. The Contractor shall conduct periodic tests to evaluate the effectiveness of these contingency plans. The plans shall at a minimum address emergency response, backup operations, and post-disaster recovery. Contingency planning efforts shall adhere to the guidance contained in DHS MD4300.Pub, Volume II, Part A, *IT Security Program Handbook for Sensitive Systems*; as well as the TSA MD 1400.3 Pub Information Technology Security Manual, Section cited in source below.



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#### Sources:

- DHS MD4300.Pub, Volume I, Part A, *Policy Guide for Sensitive Systems*, para 3.2, *Contractors and Outsourced Operations* (2<sup>nd</sup> and 3<sup>rd</sup> policy statements); para 4.10.2, *Disaster Recovery & Continuity of Operations*.
- TSA 1400.3, *Information Technology Security Manual*, Chapter 3, Section 10 – Continuity of Operations)

### H.16 Personnel Security

The Contractor shall ensure that its employees follow all policies and procedures governing physical, environmental, and information security described in the various TSA regulations pertaining thereto, good business practices, and the specifications, directives, and manuals for conducting work to generate the products as required by this Task Order. Personnel will be responsible for the physical security of their area and government furnished equipment (GFE) issued to them under the provisions of the Task Order.

- (a) All Contractor personnel (including subcontractor personnel) must have favorably adjudicated background investigations *commensurate with the sensitivity level of the position* held before being granted access to DHS sensitive information.
- (b) The Contractor shall ensure all contractor personnel are properly submitted for appropriate clearances and/or background investigations.
- (c) The Contractor shall ensure appropriate controls have been implemented to prevent contractor personnel from obtaining access to DHS sensitive information before a favorably adjudicated background investigation has been completed and appropriate clearances have been issued. At the option of the government, interim access may be granted pending completion of a pre-employment check. Final access may be granted only upon favorable completion of an appropriate background investigation based on the risk level assigned to this contract by the Contracting Officer.
- (d) The Contractor shall ensure its personnel have a validated need to access DHS sensitive information and are granted the most restrictive set of access privileges needed for performance of authorized tasks.
- (e) The Contractor shall ensure that its personnel comply with applicable Rules of Behavior for all DHS and contractor-owned IT systems to which its personnel have been granted access privileges.
- (f) The Contractor shall implement procedures to ensure that system access privileges are revoked for contractor personnel whose employment is terminated or who are reassigned to other duties and no longer require access to DHS sensitive information.
- (g) The Contractor shall conduct exit interviews to ensure that contractor personnel who no longer require access to DHS sensitive information

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understand their obligation not to discuss or disclose DHS sensitive information to which they were granted access under this Task Order.

**Sources:**

- DHS MD4300.Pub, Volume I, Part A, Policy Guide for Sensitive Systems, para 3.2, Contractors and Outsourced Operations (2nd and 3rd policy statements); para 4.1 (Operational Policies, including subparagraphs 4.1.1, 4.1.2, 4.1.3, 4.1.5).
- TSA MD 1400.3. Information Technology Security Manual, Chapter 3, Section 1 – Personnel Security
- DHS MD Number: 11050.1, Personnel Security Program, Attachment A.

**Contract Personnel Screening**

A. All employees assigned to work in a TSA facility, inclusive of all airports nationwide, under this Task Order will be required to undergo a pre-employment security screening investigation prior to being permitted to report to work. The Contractor shall ensure that each employee meets the following criteria:

- 1) Contractor employees must be US Citizens or Legal Permanent Residents. Only US Citizens can access TSA's Information Technology (IT) Systems.
- 2) Contractor employees must undergo a favorable Background Investigation.
  - a) The following Background Investigation Security Paperwork must be completed by the contractor employee and given to the Contracting Officer's Technical Representative (COTR) at least 35 days prior to the employment start date:
    - 1) Standard Form (SF) 86, Questionnaire for National Security. (The SF 86 is available at [www.opm.gov](http://www.opm.gov) under standard forms; Contractor employee screening may also be required using OPM's e-QIP application.)
    - 2) Form FD 258, Fingerprint Cards. (Two (2) original Fingerprint Cards are required to be completed and signed by the person taking the fingerprints. Fingerprints can be taken by local law enforcement agencies.)
    - 3) TSA Form 2201, Fair Credit Reporting Act Form.
  - b) The COTR will submit the Background Investigation Security Paperwork to the TSA Credentialing Program Office (CPO). This

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submission must take place at least thirty (30) days prior to the employment start date.

- c) When a contractor employee voluntarily or involuntarily leaves his/her employment under a contract with TSA, the contractor must obtain and return the contractor employee's badge to the COTR on the contractor employee's last day of work at a TSA facility, inclusive of all airports nationwide. The COTR will return the contractor employee's badge to the Office of Security, Physical Security Division.

B. As stated above, contractor employees requiring staff-like access to TSA facilities on a recurring basis (more than 14 days per year) must have a favorably adjudicated fingerprint based criminal history record check, credit check and search of the Office of Personnel Management, Security/Suitability Investigations Index, prior to being issued a permanent TSA Headquarters photo access pass. COTRs should advise the Office of Security, Physical Security Division, if the Task Order on which the contractor is working will last 90 days or less. Record checks may be conducted prior to or concurrently with a National Agency Check and Inquiries and Credit (NACIC) investigation. The NACIC is the minimum investigative standard for TSA contractor employees.

C. Contractor employees requiring temporary facility access for one to fourteen days or facility maintenance, routine delivery, etc., require only a fingerprint check and/or National Crime Information Center (NCIC) records check.

D. A contractor that participates in the National Industrial Security Program (NISP) may, through their COTR certify, in writing, that their employees have met the standard defined in Paragraph B. above.

Contractor employees working on this Task Order must complete such forms as may be necessary for security or other reasons, including the conduct of background investigations to determine suitability. Completed forms shall be submitted as directed by the Contracting Officer. Upon the Contracting Officer's request, the Contractor's employees shall be fingerprinted, or subject to other investigations as required. All contractor employees requiring recurring access to Government facilities or access to sensitive information or IT resources are required to have a favorably adjudicated background investigation prior to commencing work on this Task Order unless this requirement is waived under Departmental procedures. The CO, COTR and CSO work together on a daily basis to ensure all employees are cleared for access.

#### **Prohibition of Individuals**

The Contracting Officer may require the contractor to prohibit individuals from working on the Task Order if the government deems their initial or continued employment

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contrary to the public interest for any reason, including, but not limited to, carelessness, incompetence, or security concerns.

#### **Non-Disclosure of Sensitive Information**

Work under this Task Order may involve access to sensitive information. Therefore, the contractor shall not disclose, orally or in writing, any sensitive information to any person unless authorized in writing by the Contracting Officer. For those contractor employees authorized access to sensitive information, the contractor shall ensure that these persons receive training concerning the protection and disclosure of sensitive information both during and after Task Order performance.

Contractor employees shall complete a *non-disclosure agreement (NDA)* form and safeguard the same. Proper annual IT security training is also required for access, protection and disclosure of sensitive information. The IT Security Office requires that contractors fill out an NDA form. Forms are filled for future reference at the OCISO.

Security requirements listed herein shall apply to all subcontractors as well. The following items are required if the contractor will have access to IT resources:

- ◆ Provide an IT security briefing or orientation and fill out the NDA form for all contractors; to be coordinated by the COTR with the IT Security Training Program.
- ◆ Contractor access will be limited to certain sites, buildings, floors and rooms as required by the COTR and Training Coordinator.
- ◆ Access to DHS networks via remote means is subject to approval on a case-by-case basis.
- ◆ Contractors shall review and sign the Computer Access Agreement (CAA) form explaining proper usage of IT resources and equipment. Improper usage is grounds for employee removal.
- ◆ Access to IT resources by non-US citizens is subject to a case-by-case basis using waivers.
- ◆ Offerors shall identify and include the names, citizenship and clearances of all proposed Key Personnel and other key/critical personnel in their proposed Staffing Plan. After task order award, the Contractor shall provide the same information for all personnel assigned to the Task Order.

#### **Contract Personnel Security Clearances**

Staff for use on these efforts must be capable of being granted a security clearance for access to classified information and/or IT resources appropriate for the level of classification associated with the work they are to perform. Contractor personnel will be required to submit documentation, including appropriate credentialing, for access to TSA workplaces through the Security Office in order to facilitate their unencumbered entrance to appropriate TSA facilities.

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## **Minimum Security Clearances**

Resources engaged in systems analysis, architecture development, programming, systems administration, and hands-on application development involving actual data must be cleared at the minimum security level of Secret, or Interim Secret. Administrative staff not *directly* involved in supporting these efforts need not possess a Secret-level clearance, but must have a favorably-determined employment suitability check.

## **Future Work Orders**

Future work packages, derived from representative work packages contained herein, may require higher clearance levels such as Top Secret (TS) or Top Secret with Sensitive Compartmented Information designation (TS/SCI). When and if such future work packages are designed and awarded, required clearance levels will be specified, and the requisite DD Form 254, Contract Security Classification Specification, will be initiated.

## **Government Approval of Contractor Staff Personnel Clearances**

Notwithstanding any clearances obtained by contractor personnel, any contractor personnel assigned to perform classified requirements for this Task Order are designated as Key Personnel and are subject to the advanced approval requirements as set forth in Section II, Item H.7, Key Personnel.

The Government expects that the Contractor will use existing, cleared resources, appropriate for the clearance level required, to accomplish the work contained herein.

## **Training and Awareness**

- (a) The Contractor shall ensure that all contractor personnel (including subcontractor personnel) who are involved in the management, use, or operation of any IT systems that handle DHS sensitive information, receive annual training in security awareness, accepted security practices, and system rules of behavior.
- (b) The Contractor shall ensure that contractor personnel (including subcontractor personnel) with significant IT security responsibilities receive specialized annual training tailored to their specific security responsibilities.
- (c) The training and awareness conducted under this clause shall promote a consistent understanding of the principles and concepts of telecommunications and IT systems security as described in DHS MD4300.Pub, Volume II, Part A, IT Security Program Handbook for Sensitive Systems.
- (d) DHS training and awareness resources may be available for the Contractor's use in implementing the requirements of this clause. The COTR will inform the Contractor of any available DHS training resources.

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**Sources:**

- DHS MD4300.Pub, Volume I, Part A, *Policy Guide for Sensitive Systems*, para 3.2, *Contractors and Outsourced Operations* (2<sup>nd</sup> and 3<sup>rd</sup> policy statements); para 4.1.4, Training and Awareness
- TSA 1400.3, *Information Technology Security Manual*, Chapter 3, Section 23 (Security Awareness, Training & Education)

## **H.17 Contractor Access to Information Technology Resources**

### **Security Briefings**

Before receiving access to IT resources under this Task Order the individual must receive a security briefing, which the COTR will arrange, and complete any non-disclosure agreement furnished by DIIS.

### **Limitation of Access**

The contractor shall have access only to those areas of DHS OF information technology resources explicitly stated in this Task Order or approved by the COTR in writing as necessary for performance of the work under this Task Order. Any attempts by contractor personnel to gain access to any information technology resources not expressly authorized by the statement of work, other terms and conditions in this Task Order, or as approved in writing by the COTR, is strictly prohibited. In the event of violation of this provision, DHS will take appropriate actions with regard to the Task Order and the individual(s) involved.

### **Remote Access to DHS/TSA Networks**

Contractor access to TSA/DHS networks from a remote location is a temporary privilege for mutual convenience while the contractor performs business for the TSA. It is not a right, a guarantee of access, a condition of the Task Order, nor is it Government-Furnished Equipment (GFE).

### **Termination of Access**

Contractor access will be terminated for unauthorized use. The contractor agrees to hold and save harmless from any unauthorized use and agrees not to request additional time or money under the contract for any delays resulting from unauthorized use or access.

### **Non-U.S. Citizen Access**

Non-U.S. citizens shall not be authorized to access or assist in the development, operation, management or maintenance of Department IT systems under the Task Order, unless a waiver has been granted by the Head of the Organizational Element or designee,

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with the concurrence of the Office of Security and Department's CIO or designee. In order for a waiver to be granted:

- (i) The individual must be a permanent resident of the U.S. or a citizen of Ireland, Israel, the Republic of the Philippines, or any nation on the Allied Nations List maintained by the Department of State.
- (ii) All required security forms specified by the Government and any necessary background check must be satisfactorily completed.
- (iii) There must be a compelling reason for using this individual as opposed to a U.S. citizen.
- (iv) The waiver must be in the best interest of the Government

Contractors shall identify in their proposals, the names and citizenship of all non-citizens proposed to work under the Task Order. Any additions or deletions of personnel who are on-U.S. citizens after Task Order award shall also be reported to the Contracting Officer.

## **H.18 Handling Sensitive Information (SSI) and IT Resources**

### **Definitions**

*Sensitive Information* means any information, the loss, misuse, disclosure, or unauthorized access to or modification of which could adversely affect the national or homeland security interest, or the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:

(1) *Protected Critical Infrastructure Information (PCII)* as set out in the Critical Infrastructure Information Act of 2002 (Title II, Subtitle B, of the Homeland Security Act, Public Law 107-296, 196 Stat. 2135), as amended, the implementing regulations thereto (Title 6, Code of Federal Regulations, Part 29) as amended, the applicable PCII Procedures Manual, as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the PCII Program Manager or his/her designee). The IT Security office currently has a representative engineer who attends CIP meetings;

(2) *Sensitive Security Information (SSI)*, as defined in Title 49, Code of Federal Regulations, Part 1520, as amended, "Policies and Procedures of Safeguarding and Control of SSI," as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or his/her designee). The IT Security Office currently has an SSI Officer actively engaged in SSI related issues/concerns;

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(3) *"For Official Use Only (FOUO)"* is unclassified information of a sensitive nature, and the unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, individual privacy under 5 U.S.C. section 552a or other programs or operations essential to the national or homeland security interest; and if provided by the Government to the contractor, is marked in such a way as to place a reasonable person on notice of its sensitive nature.

(4) *"Information Technology Resources"* include, but are not limited to, computer equipment, networking equipment, telecommunications equipment, cabling, network drives, computer drives, network software, computer software, software programs, intranet sites, and internet sites.

#### **Disclosure of Information –Official Use Only**

Any TSA Information made available or to which access is provided, and which is marked or should be marked "Official Use Only", shall be used only for the purpose of carrying out the provisions of this Task Order and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Task Order. Disclosure to anyone other than an officer or employee of the contractor or subcontractor at any tier shall require prior written approval of the TSA. Requests to make such disclosure should be addressed to the TSA Contracting Officer.

#### **Notification of Proper Use and Penalties for Misusing "Official Use Only" Information**

Each officer or employee of the contractor or subcontractor at any tier to whom "Official Use Only" information may be made available or disclosed shall be notified in writing by the contractor that "Official Use Only" information disclosed to such officer or employee can be used only for the purpose and to the extent authorized herein, and that further disclosure of any such "Official Use Only" information, by any means, for a purpose or to an extent unauthorized herein, may subject the offender to criminal sanctions imposed by 18 U.S.C. Sections 641 and 3571. Section 641 of 18 U.S.C. provides, in pertinent part, that whoever knowingly converts to his use or the use of another, or without authority sells, conveys, or disposes of any record of the United States or whoever receives the same with the intent to convert it to his use or gain, knowing it to have been converted, shall be guilty of a crime punishable by a fine or imprisoned up to 10 years or both.

### **H.19 Use of Foreign Nationals and Foreign Entities on TSA Contracts**

All contractor employees, whether employed by the contractor, a subcontractor or who is consultant to TSA, involved in the performance of this Task Order and requiring access to areas controlled by TSA, an FDS or IFSR or access to sensitive information and/or resources shall be a citizen of the United States or an immigrant alien who has been lawfully admitted for permanent residence as evidenced by Alien registration Receipt Card Form I-151.



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Copies of appropriate, valid INS documentation must be made available to the Government upon request.

#### *Facility and Sensitive Information Access for Immigrant Aliens*

For immigrant aliens who are working under this Task Order and require access to facilities, sensitive information a/or resources the following conditions must be met:

- ◆ The foreign national must have resided within the United States for 3 years of the last 5 years unless a waiver of this requirement is requested and approved from TSA;
- ◆ TSA makes a valid risk or sensitivity level designation for the position; and
- ◆ TSA shall conduct the appropriate security screening for the position.

#### **Disclosure of Technology to Non-Immigrant Alien**

Disclosure of source code, technology, or documentation to a nonimmigrant alien, a type of foreign national not authorized access may be considered to be an export and export control violation by TSA. The contractor shall at all time comply with Traffic in Arms Regulation (ITAR), 22 C.F.R. parts 120 through 130, and the Export Administration Regulations (EAR), 15 C.F.R. parts 730 through 799, in the performance of this Task Order. In complying with these export provisions, the contractor shall determine the applicability of license exemptions; exceptions and obtain appropriate licenses or other approvals for exports of source code, technology, and documentation. The contractor shall make the same determinations where its use of non-immigrant aliens would allow them access to export sensitive information. Acquisitions involving foreign nationals or foreign entities are subject to the following provisions:

#### **Use of Non-Immigrant Aliens and Non-US Companies**

The contractor shall submit an explanation to the TSA Contracting Officer of why use of the non-immigrant alien would not violate export restrictions. The contractor shall be responsible for all regulatory record keeping requirements associated with the license and license exemption or exception. Copies of export related determinations and documentation shall be provided to TSA upon request. For export or security reasons, TSA reserves the right to exclude Offerors with a controlling degree of non U.S. ownership, and non U.S. place of business or nonimmigrant aliens from being given access to software, equipment, technology or documentation necessary to prepare an offer or to perform the contract. This clause shall flow down to subcontractors.

## **H.20 Protection of Sensitive Technologies Information and Release Of Information**

All technical data provided to the Contractor by the Government shall be protected from public disclosure in accordance with the markings contained thereon. The Contractor and its subcontractors shall NOT release to the public or other Government agencies except as

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specified below, any information developed under or pertaining to this Task Order or subcontracts without the express written approval of the Contracting Officer or Contracting Officer's Technical Representative. This information includes press releases, promotional literature, and articles in technical publications, speeches at technical or scientific gatherings, price lists, and deliverables. The Government will not unreasonably reject requests from the Contractor for release of information to the technical and scientific community.

*The Contractor shall protect all DHS "sensitive information" to include TSA "sensitive security information (SSI)" to which the Contractor is granted physical or electronic access by adhering to the specific IT security requirements of this contract and the DHS and TSA security policies specified in the following directives:*

- a) DHS MD4300.Pub, Volume I, Part A, Policy Guide for Sensitive Systems
- b) TSA MD 1400.3 Pub, Chapters 1-4, Information Technology Security Manual

Note: Where DHS subsequently appears, it will automatically equate to DHS/TSA, unless otherwise stated or obvious separation is required. Where sensitive information subsequently appears, it will refer as well to SSI. If the two policies conflict the stricter will apply.

**Sources:**

- DHS MD11042, *Safeguarding Sensitive But Unclassified (For Official Use Only) Information*, 11 May 04.
- For TSA, sensitive information includes what is known as SSI. SSI protection requirements are defined in the TSA document entitled, Interim Sensitive Security Information (SSI) Policies and Procedures for Safeguarding and Control, 8 Oct 03.

## **H.21 Major Breach of Safety or Security**

### **Safety Breach**

Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. Safety is essential to TSA and is a material part of this contract. A major breach of safety may constitute a breach of contract that entitles the Government to exercise any of its rights and remedies applicable to material parts of this Task Order, including termination for default. A major breach of safety must be related directly to the work on the Task Order. A major breach of safety is an act or omission of the Contractor that consists of an accident, incident, or exposure resulting in a fatality or mission failure; or in damage to equipment or property equal to or greater than \$1 million; or in any "willful" or "repeat" violation cited by the Occupational Safety and Health Administration (OSHA) or by a state agency operating under an OSHA approved plan.

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## **Security Breach**

Security is the condition of safeguarding against espionage, sabotage, crime (including computer crime), or attack. A major breach of security may constitute a breach of contract that entitles the Government to exercise any of its rights and remedies applicable to material parts of this Task Order, including termination for default. A major breach of security may occur on or off Government installations, but must be related directly to the work on the Task Order. A major breach of security is an act or omission by the Contractor that results in compromise of classified information, illegal technology transfer, workplace violence resulting in criminal conviction, sabotage, compromise or denial of information technology services, equipment or property damage from vandalism greater than \$250,000, or theft greater than \$250,000.

*NOTE: Breach of Security for the purposes of this definition should not be confused with breach of security in screening operations.*

## **Reporting and Investigation**

In the event of a major breach of safety or security, the Contractor shall report the breach to the Contracting Officer. If directed by the Contracting Officer, the Contractor shall conduct its own investigation and report the results to the Government. The Contractor shall cooperate with the Government investigation, if conducted.

## **Computer Security Incidents**

**Security Incident Reporting.** The Contractor shall establish and maintain a computer incident response capability. The Contractor shall report computer security incidents in accordance with the guidance and procedures contained in DHS MD4300.Pub, Volume II, Part A, *IT Security Program Handbook for Sensitive Systems*; as well as the TSA MD 1400.3 Pub Information Technology Security Manual, Sections within Chapters 2-4.

### **Sources:**

- DHS MD4300.Pub, Volume I, Part A, *Policy Guide for Sensitive Systems*, para 3.2, *Contractors and Outsourced Operations* (2<sup>nd</sup> and 3<sup>rd</sup> policy statements); para 4.10.1, *Security Incident & Violation Handling*
- TSA 1400.3, *Information Technology Security Manual*, Chapter 3, Section 25 – Incident Response)

## **H.22 Disaster Recovery and Continuity of Operations (COOP) Requirements**

### **Disaster Recovery**

TSA's mission critical systems must maintain exceptionally high availability, even in the face of catastrophic events, national emergencies, and acts of terrorism. The Contractor

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must perform all development activities to comply with TSA disaster recovery requirements.

### **Continuity of Operations**

Selected applications must be developed so as to be compatible with active/active production environments. Custom development or COTS/GOTS software platforms must be capable of operating in this environment for continuity of operations (COOP) purposes. The Contractor must ensure that COOP requirements are gathered for each Work Order performed; the Government will specify COOP requirements at the Work Order level.

## **H.23 Identification of Contractor Employees**

All contractor personnel attending meetings, answering Government telephones, and working in other situations where their contractor status is not obvious to third parties are required to identify themselves as such. They must also ensure that all documents or reports produced by contractors are suitably marked as contractor products or that contractor participation is appropriately disclosed.

## **H.24 Information Protected by the Privacy Act**

### **Privacy Act Notification**

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations (6 CFR part 5). Violation of the Act may involve the imposition of criminal penalties.

### **Privacy Act Requirements**

(a) The Contractor agrees to--

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations (6 CFR part 5) issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the Task Order specifically identifies--

(i) The systems of records; and

(ii) The design, development, or operation work that the contractor is to perform;

(2) Include the Privacy Act notification contained in this Task Order in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and

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(3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this Task Order which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the Task Order is for the operation of a system of records on individuals to accomplish an agency function, the Contractor is considered to be an employee of the agency.

(c) (1) "Operation of a system of records," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) "Record," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) "System of records on individuals," as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

#### **Privacy Violation Indemnification and Hold Harmless**

The contractor agrees to release, indemnify, and hold harmless the Government from and against any claims, demands, actions, liens, rights, debts, liabilities, judgments, costs, and attorney's fees, arising out of, claimed on account of, or in any manner predicated upon the contractor or its employees' violation of the Privacy Act of 1974, 5 U.S.C. Section 552a, or any other privacy related laws, and any applicable rules and regulations.

#### **H.25 Publicity Restrictions**

(a) The Contractor shall not use or allow to be used any aspect of this Task Order for publicity, unless authorized to do so in writing by the Contracting Officer. "Publicity" means, but is not limited to, advertising (e.g. trade magazines, newspapers, Internet, radio, television etc.), communications with the media, or marketing. It is further understood that this obligation shall not expire upon completion or termination of this Task Order, but will continue indefinitely.

(b) The contractor shall not refer to award of this Task Order and any work orders in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed

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or preferred by the Federal Government or is considered by the Government to be superior to other products or services.

(c) The Contractor shall include the substance of this clause, including this paragraph in each subcontract issued under this Task Order.

## **H.26 Warranty**

Pursuant to the Inspection and Acceptance clauses in the EAGLE contract, and the Warranty clauses in this Task Order, the Contractor must warrant that, commencing from the date of delivery to Government and continuing for a period of one year, the media on which the Software is furnished will be free of defects in materials and workmanship under normal use; and the Software produced under this Task Order substantially conforms to the specifications embodied in the Government's approved functional requirements documents.

## **H.27 DD 254 Requirements**

The Contractor shall adhere to the security information contained in Attachment 2 to this Task Order, "DD 254 Requirements".

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## **PART II – Task Order Clauses**

### **Section I - Task Order Clauses**

The relevant clauses in Section I – Contract Clauses, of the EAGLE contract are in full force and effect.

#### **I.1 Clauses Incorporated By Reference (FAR 52.252-2) (FEB 1998)**

This Task Order incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text may be accessed electronically at these Internet addresses: <http://www.arnet.gov>.

<b>FAR Clause No.</b>	<b>Title and Date</b>
52.217-9	Option to Extend the Term of the Contract (MAR 2000) Within 30 calendar days before the task order expires, provided notice is given Within 60 days
52.227-17	Rights in data – special works
52.233-1	Disputes (JUL 2002) ALT I (DEC 1991)
52.246-17	Warranty of Supplies of a Noncomplex Nature
52.246-18	Warranty of Supplies of a Complex Nature
52.246-19	Warranty of Systems and Equipment Under Performance Specifications or Design Criteria
52.246.20	Warranty of Services

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## **I.2 Protest After Award**

(a) Upon receipt of a notice that a protest has been filed with the FAA Office of Dispute Resolution for Acquisition (ODRA), or a determination that a protest is likely, the (Undersecretary or his designee may instruct the Contracting Officer) to direct the Contractor to stop performance of the work called for by this Task Order. The order to the Contractor shall be in writing, and shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision or other resolution of the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) For other than cost-reimbursement Task Orders, terminate the work covered by the order as provided in the "Default" or the "Termination for Convenience of the Government" clause(s) of this Task Order; or

(3) For cost-reimbursement Task Order, terminate the work covered by the order as provided in the "Termination" clause of this Task Order.

(b) If a stop-work order issued under this clause is canceled either before or after the final resolution of the protest, the Contractor shall resume work. The Contracting Officer shall make for other than cost-reimbursement Task Orders, an equitable adjustment in the delivery schedule or Task Order price, or both; and for cost-reimbursement Task Orders, an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the Task Order that may be affected; and the Task Order shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Task Order; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal submitted at any time before final payment under this Task Order.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this Task Order at any time are not affected by action taken under this clause.



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### **I.3 Special Notes**

The Transportation Security Administration (TSA) is exempt from sales tax and does not have to file a Tax Exemption form since the Commonwealth of Virginia does not require any form or filing to achieve tax exempt status. TSA's FEIN = 800038533

Payment via Electronic Funds Transfer (EFT) for each task will occur upon final acceptance of each deliverable and submission of a proper invoice. Payment via EFT for any ongoing technical assistance will occur on a monthly basis as incurred and upon submission of a proper invoice with acceptable evidence of hours worked. Offerors are advised that the Government, upon award of a TO, requires submittal of invoices and employees timesheets for a month's worth of service. The Contractor shall not submit invoices for services provided for less than a month's period unless the Task Order is terminated or ends earlier than a 30 day time period.

Submittal of a proposal constitutes concurrence to abide by the referenced clauses for the resolution of any disputes.

### **I.4 Small Business Subcontracting Plan (52.219-9)**

(a) This clause does not apply to small business concerns.

(b) *Definitions.* As used in this clause—

"Alaska Native Corporation (ANC)" means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

"Commercial item" means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

"Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

"Electronic Subcontracting Reporting System (eSRS)" means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at <http://www.esrs.gov>.

"Indian tribe" means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

"Individual contract plan" means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

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"Master plan" means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

"Subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all sub-contracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626:

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

(ii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

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(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of—

- (i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;
- (ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);
- (iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;
- (iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;
- (v) Total dollars planned to be subcontracted to HUBZone small business concerns;
- (vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and
- (vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to

- (i) Small business concerns;
- (ii) Veteran-owned small business concerns;
- (iii) Service-disabled veteran-owned small business concerns;
- (iv) HUBZone small business concerns;
- (v) Small disadvantaged business concerns; and
- (vi) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Central Contractor Registration database (CCR), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in CCR as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of CCR as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—

- (i) Small business concerns (including ANC and Indian tribes);
- (ii) Veteran-owned small business concerns;
- (iii) Service-disabled veteran-owned small business concerns;
- (iv) HUBZone small business concerns;

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- (v) Small disadvantaged business concerns (including ANC and Indian tribes); and
  - (vi) Women-owned small business concerns.
- (7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.
- (8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.
- (9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$550,000 (\$1,000,000 for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.
- (10) Assurances that the offeror will—
- (i) Cooperate in any studies or surveys as may be required;
  - (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
  - (iii) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (1) of this clause using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;
  - (iv) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;
  - (v) Provide its prime contract number, its DUNS number, and the e-mail address of the Government or Contractor official responsible for acknowledging or rejecting the reports, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their reports; and
  - (vi) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the e-mail address of the Government or Contractor official responsible for acknowledging or rejecting the reports, to its subcontractors with subcontracting plans.
- (11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

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- (i) Source lists (*e.g.*, CCR), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.
  - (ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.
  - (iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating—
    - (A) Whether small business concerns were solicited and, if not, why not;
    - (B) Whether veteran-owned small business concerns were solicited and, if not, why not;
    - (C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;
    - (D) Whether HUBZone small business concerns were solicited and, if not, why not;
    - (E) Whether small disadvantaged business concerns were solicited and, if not, why not;
    - (F) Whether women-owned small business concerns were solicited and, if not, why not; and
    - (G) If applicable, the reason award was not made to a small business concern.
  - (iv) Records of any outreach efforts to contact—
    - (A) Trade associations;
    - (B) Business development organizations;
    - (C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and
    - (D) Veterans service organizations.
  - (v) Records of internal guidance and encouragement provided to buyers through—
    - (A) Workshops, seminars, training, etc.; and
    - (B) Monitoring performance to evaluate compliance with the program's requirements.
  - (vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

- (1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.
- (2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone

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small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting SBA.

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided—

(1) The master plan has been approved;

(2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) A contract may have no more than one plan. When a modification meets the criteria in 19.702 for a plan, or an option is exercised, the goals associated with the modification or option shall be added to those in the existing subcontract plan.

(j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or

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Executive Orders Commercial Items, or when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items, under a prime contract.

(k) The failure of the Contractor or subcontractor to comply in good faith with—

- (1) The clause of this contract entitled “Utilization Of Small Business Concerns;” or
- (2) An approved plan required by this clause, shall be a material breach of the contract.

(l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at <http://www.esrs.gov>. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data reported by prime Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe.

(1) *ISR*. This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan and shall be submitted to the Administrative Contracting Officer (ACO) or Contracting Officer, if no ACO is assigned.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period.

(ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(iii) The authority to acknowledge receipt or reject the ISR resides

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) *SSR*.

(i) Reports submitted under individual contract plans—

(A) This report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the subcontracts.

(B) The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If a prime Contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over \$550,000 (over \$1,000,000 for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime

Contractors. However, for construction and related maintenance and repair, a separate report shall be submitted for each DoD component.

(D) For DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. For civilian agencies, except NASA, it shall be submitted annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts.

(ii) Reports submitted under a commercial plan—

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency from which contracts for commercial items were received.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

(iii) All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a Year-End Supplementary Report for Small Disadvantaged Businesses. The report shall include subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. If the data are not available when the year-end SSR is submitted, the prime Contractor and/or subcontractor shall submit the Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

## **I.5 TSA Small Business Subcontracting Goals**

The following table presents the current subcontracting goals for the TSA for various types of small businesses. The percentages are expressed in terms of total subcontracting dollars. This information is presented for consideration in development of the required subcontracting plan.

<b><i>Subcontracts</i></b>	<b><i>FY 09 Goal</i></b>
Small Business	40%
Small Disadvantaged Business	14.5%
Women-Owned Small Business	5%
HUBZone	3%
Service Disable Veteran-Owned	3%



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## **I.6 Service Contract Act of 1965, As Amended**

### **(a) Definitions.**

- (1) "Act", as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).
- (2) "Contractor", as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term Government Prime Contractor.
- (3) "Service employee", as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) *Applicability.* This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in subpart C of 29 CFR Part 4.

### **(c) Compensation.**

- (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.
- (2)
  - (i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).
  - (ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

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(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)

(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

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(3) *Adjustment of Compensation.* If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished there under to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) *Obligation to Furnish Fringe Benefits.* The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with subpart D of 29 CFR Part 4.

(e) *Minimum Wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) *Successor Contracts.* If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or

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after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) *Notification to Employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WII 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) *Safe and Sanitary Working Conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) *Records.*

(1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act-

- (A) Name and address and social security number;
- (B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;
- (C) Daily and weekly hours worked by each employee; and
- (D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

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(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) *Pay Periods.* The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(k) *Withholding of Payments and Termination of Contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) *Subcontracts.* The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) *Collective Bargaining Agreements Applicable to Service Employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) *Seniority List.* Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names, of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The

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Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) *Rulings and Interpretations.* Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) *Contractor's Certification.*

(1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) *Variations, Tolerances, and Exemptions Involving Employment.* Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by P. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business.

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice

in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) *Tips*. An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations 29 CFR part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision-

- (1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;
- (2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);
- (3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit;
- (4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) *Disputes Concerning Labor Standards*. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the "Disputes" clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

## **I.7 Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts). (SEP 2009)**

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The wage determination, issued under the Service Contract Act of 1965, as amended, (41 U.S.C. 351, *et seq.*), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended,

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(29 U.S.C. 206) current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract.

(d) The contract price, contract unit price labor rates, or fixed hourly labor rates will be adjusted to reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

- (1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract, or at the beginning of the renewal option period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;
- (2) An increased or decreased wage determination otherwise applied to the contract by operation of law; or
- (3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (d) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(f) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and the change in fixed hourly rates (if this is a time-and-materials or labor-hour contract), and any relevant supporting data, including payroll records, that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price, contract unit price labor rates, or fixed hourly rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(g) The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor until the expiration of 3 years after final payment under the contract.



## **Section J – List of Attachments**

1. Attachment 1 – Statement of Work
2. Attachment 2 – DD 254 Requirements
3. Attachment 3 – DOL Wage Determinations
  - A. Washington, DC Metropolitan Area
  - B. Ft. Worth/Tarrant County, Texas
4. Attachment 4 – Labor Rate Tables
5. Attachment 5 – List of Government Furnished Equipment